



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

Author and Title

Alabama. Laws, statutes, etc.
The code of Alabama.

Call Number	KFA 30 1907 A222	Vol. 1	Copy
-------------	---------------------------	-----------	------

THIS BOOK DOES NOT CIRCULATE
OUTSIDE THE BUILDING

Name	Location
SUPERSEDED	

Alabama. Laws, statutes, etc.
The code of Alabama.

KFA	vol.
30	1
1907	
A222	

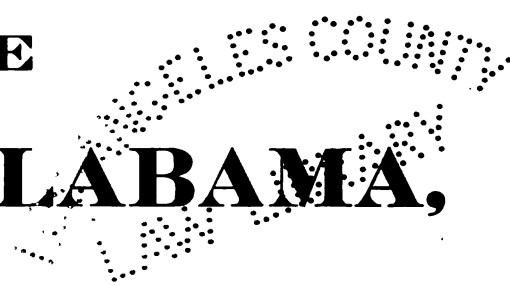
SUPERSEDED



76.J.

Alabama, Laws, statutes, etc.

THE CODE OF ALABAMA,



ADOPTED BY ACT OF THE LEGISLATURE OF ALABAMA;
APPROVED

JULY 27, 1907,

ENTITLED

“AN ACT TO ADOPT A CODE OF LAWS FOR THE STATE OF ALABAMA,”

WITH SUCH STATUTES PASSED AT THE SESSION OF 1907 AS ARE REQUIRED TO BE INCORPORATED HEREIN BY ACT APPROVED JULY 27, 1907 (ACTS 1907, PAGE 499); AND WITH CITATIONS TO DECISIONS OF THE SUPREME COURT OF THE STATE CONSTRUING OR MENTIONING THE STATUTES; AND REFERENCES TO ALL FORMER ACTS OF THE LEGISLATURE, AND TO ALL FORMER CODES, DIGESTS, AND COMPILATIONS OF STATUTES, SHOWING THE ORIGIN, HISTORY AND TRANSITION OF THE STATUTES.

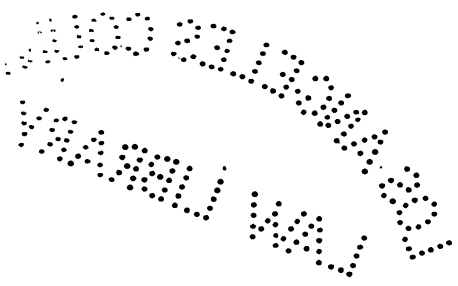
IN THREE VOLUMES.

VOL. I—POLITICAL.

PREPARED BY
JAMES J. MAYFIELD,
CODE COMMISSIONER.

NASHVILLE, TENN.:
MARSHALL & BRUCE COMPANY
PRINTERS AND BINDERS.
1907.

112



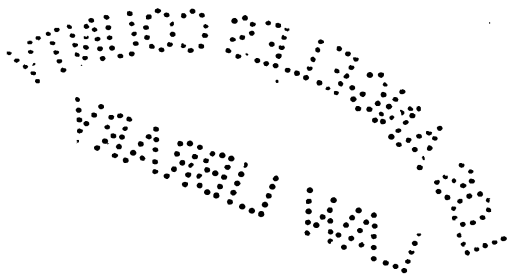
KFA
30
1907
A222
v.1

Entered according to Act of Congress, in the year 1907, by
B. B. COMER, as Governor of the State of Alabama, for the use of said State,
In the office of the Librarian of Congress, at Washington, D. C.

CERTIFICATE OF THE CODE COMMISSIONER.

I, JAMES J. MAYFIELD, the Commissioner elected under the provisions of an act of the Legislature of Alabama approved September 30, 1903 (Acts 1903; p. 298), entitled "An act to provide for the revision, codification, digesting, and promulgation of the statutes of this State, both civil and criminal," and, under the provisions of an act of the Legislature of Alabama approved July 27, 1907 (Acts 1907, p. 504), entitled "An act to provide for the publication and distribution of the Code of Alabama," charged with the duty of supervising the publication of the Code of Alabama, which was adopted by an act of the Legislature of Alabama approved July 27, 1907, entitled "An act to adopt a code of laws for the State of Alabama," do hereby certify that I have compared the Code, as printed, with the original manuscript as adopted by the Legislature, and that the Code, as printed, is the same as adopted by the Legislature, with the changes required by law to be made.

JAMES J. MAYFIELD,
Code Commissioner.



PREFACE.

This printed publication in three volumes is popularly called "The Code of Alabama." It contains a printed copy of the Code proper, together with the compilation of the general and permanent statutes of Alabama which were enacted by the Legislature at the general session of 1907, after the ninth day of July, this being the date the Legislature assembled after the recess. It also contains as prefatory matter the Declaration of Independence, the Articles of Confederation, the Constitution of the United States, the various Constitutions of the State of Alabama, with numerous acts of Congress pertaining to the history of the state, and the Territories of Mississippi and of Alabama.

The Code proper is that body of laws in manuscript filed in the office of the Secretary of State which was prepared by the Code Commissioner, revised by the Code Committee, reported to the Legislature by the committee, and adopted by the Legislature on the 27th day of July, 1907 (Code, p. 1). The compilation of statutes of those acts of the Legislature passed at the regular session of 1907 after the ninth day of July, 1907, were arranged, divided into sections, numbered, classified, and published as if a part of the Code proper, under and in accordance with an act of the Legislature "to provide for the publication and distribution of the Code of Alabama," approved July 27, 1907 (Acts 1907, p. 504).

The validity of the statutes and sections of this Code, not in the Code when adopted, depends upon the several respective acts of the Legislature enacting them, and not upon the act adopting the Code. These acts were not changed at all by the commissioner, except to the extent that this became absolutely necessary in classifying and dividing them into sections.

The act of July 27th, 1907, "To provide for the publication and distribution of the Code of Alabama" (Acts 1907, p. 504), provided that all acts of the Legislature passed on and after the 9th day of July, 1907, amending any section of the Code of 1896, should be substituted by the commissioner in the place of the amended section, and become a part of the Code, and that all other general acts passed on and after the 9th day of July, 1907, should be inserted at the proper place according to its subject-matter, and be printed in the same type and style of the Code, leaving off its title, the enacting clause, and numbering the sections of the act with the appropriate number in the Code. These provisions of the act, of course, required a renumbering of all of

the sections of the printed Code, consequently the numbers of this printed volume do not, and cannot, correspond with the numbers of the Code proper, which is in manuscript and filed in the office of the Secretary of State, and which was numbered and adopted as the Code before the passage of this act requiring the codification or compilation of the statutes passed thereafter. It also required a change of all references in the Code proper and in the annotations, because these references were originally made to the Code proper as adopted. Many of these acts compiled in the Code expressly repeal certain provisions, chapters, articles, and sections of the Code of 1896, which had been incorporated into the Code proper and adopted by the Legislature. In such cases the repealed laws were omitted from the printed copy of the Code, and the repealing law or statute substituted therefor. In all cases where there was any doubt in the mind of the commissioner as to whether or not a given provision of the Code was repealed by a subsequent statute, the commissioner has not omitted the repealed or repealing statute, but both are printed, leaving the courts to decide whether or not it is repealed. Consequently, it may happen that some provisions of the Code proper as they are printed in this Code, are repealed by statutes passed after the adoption of the Code, and it is probable that some of the statutes compiled and as they appear in this Code, have been repealed by subsequent statutes printed in this Code, and, certainly so, by those acts passed at the extraordinary session of the Legislature called by the Governor, which convened on the 7th day of November, 1907, after a great part of the Code was in print, and which on that account could not be published in this Code.

NUMBERING OF SECTIONS OF THE CODE.

The sections of the Code are numbered in numerical order from 1 to 7900. The numbers in parentheses following the number of the section of the Code show the corresponding numbers which the particular section bore in the Codes of 1896, 1886, 1876, 1867, and 1852, in the order herein set forth. A blank parenthesis (), with no number, indicates that the section was not contained in the respective intermediate Code, or Codes. As the Code of 1852 contained no criminal statutes, the sixth parenthetical number in the Criminal Code refers to the Penal Code of 1866.

MARGINAL REFERENCES.

The marginal references show the origin of the statute since the Code of 1896 upon which the statute is based, or which amended the section since last codified. The letters (w.c.c.) indicate that that section was written by the Code Committee, which revised the manuscript prepared by the commissioner. The letters (r.c.c.) indicate that the section was revised by the Code Committee.

ABSENCE OF MARGINAL REFERENCES AND PARENTHETICAL NUMBER.

The absence of any marginal reference and any parenthetical number indicates that such section was written by the commissioner and adopted by the Legislature as a part of the Code.

REFERENCE TO STATUTES PRIOR TO THE ADOPTION OF CODE OF 1896.

Reference to statutes or acts of the Legislature prior to the Code of 1896, upon which the sections of the Code are based, or which amend them or pertain to similar or kindred subjects, are made as a part of the annotations and enclosed in parentheses. If prior to the Code of 1852 they are frequently referred to in Toulmin's, Aikin's and Clay's Digests, which were the original and authorized compilations of the statutes prior to the Code of 1852. These are intended merely as historical references and, in connection with the parenthetical numbers referring to all previous Codes, and to the marginal references referring to statutes and acts of the Legislature since the Codes of 1896, and the references to the revisions made by the Code Committee and the Code Commissioner, the origin and history of every section of the Code may be readily traced. These references go back to the acts of the Territory of Mississippi and to the Territory of Alabama, thus affording a complete history of all of the statutory law of the state. Every statute of a general or permanent nature pertaining to Alabama Territory, whether passed by the Congress of the United States, or by the Legislature of the State or Territory, has been examined, and, when deemed necessary, has been referred to.

ANNOTATIONS.

The annotations and references to the decisions of the Supreme Court of Alabama and of the United States, construing various sections of the Code and which follow such sections, printed in somewhat smaller type, are not a part of the law of the state, and are no part of the Code proper or of the statutes. They were prepared by the commissioner and intended only for the convenience of those who might use the Code in order to find the origin, trace the history, and ascertain the true construction, meaning, or effect of the statutes. The annotations have been made as full and complete as the time and ability of the commissioner and the printing space would allow. They are not perfect by any means, but they are as near so as the commissioner could make them, within the limited time and space allowed. Every decision of the Supreme Court, from Minor to the 145th Alabama, both inclusive, has been examined for the purpose of perfecting, as near as possible, the citations and annotations. Space would not allow the making of the annotations as full or complete as they should be. The commissioner was compelled to revise and condense several times, for the reason that they would occupy too much space.

VOLUMES OF THE CODE.

The Code is divided into three volumes, in accordance with the act of the Legislature (Acts 1903, p. 298)—Political, Civil, and Criminal. The Political Code contains 2439 sections, numbered from 1 to 2439, inclusive. The Civil Code contains 3770 sections, numbered from 2440 to 6209, inclusive. The Criminal Code contains 1691 sections, numbered from 6210 to 7900, inclusive.

There is no fixed or certain rule known to the commissioner by which it is possible to determine what subjects should be incorporated in the Political Code and what in the Civil. They are, therefore, classified with respect to a practical or utilitarian arrangement, as nearly as could be, rather than a logical or theoretical one, placing in the Political those subjects which pertain to the political organization and administration of government, and in the Civil, those which pertain to civil rights and remedies. The one pertains more to the executive, legislative, and administrative departments of state, and the other more to the judicial department. However, it was still found impracticable to adhere strictly to this rule, because a part of one subject, chapter, article, or section might pertain to both the executive and judicial departments, and to have separated them would have been to produce confusion.

ARTICLES.

Each of the chapters sufficiently large and susceptible of such arrangement, has been divided into articles.

CROSS REFERENCES.

A system of cross references of and to subjects treated in the three volumes of the Code has been inserted in each of the volumes where the subject would occur in alphabetical order; hence, if any subject treated in the Code is not found in any particular volume, a reference will be found in that volume to the other volumes in which such subject is treated, thus completing and perfecting the alphabetical arrangement of all subjects treated in the three volumes.

INDEXES.

Each volume contains a separate index for the particular volume, with cross references to the subjects and chapters treated in the other volumes. The Constitution of the United States contains a separate index, found in the Political volume of the Code, at pages 174–216. The Constitutions of Alabama of 1875 and 1901 are paralleled, annotated, and indexed separately, and will be found as preliminary matter in the Criminal Code. The Constitutions were placed in the respective volumes in accordance with the act of the Legislature providing for the publication of this Code.

CODE COMMITTEE.

An act of the Legislature, approved February 15, 1907 (Acts 1907, pp. 41 and 110), provided for the appointment of a joint committee to read and revise the manuscript of this Code prepared by the commissioner, James J. Mayfield. This committee was composed as follows: On the part of the House: Hon. S. W. John (Chairman), Hon. A. H. Carmichael, Hon. J. M. Foster, Hon. O. C. Maner, and Hon. H. B. Steagall. On the part of the Senate: Hon. John A. Lusk, Hon. H. P. Merritt, and Hon. L. D. Gardner.

This committee, during recess, read and thoroughly considered every section of the manuscript originally prepared by the commissioner, and also all acts of the Legislature passed at the session of 1907 prior to recess, which were codified by the commissioner and submitted to the committee with the original codification prepared by him. The committee either adopted, rejected, or amended and revised each section of the Code prepared by the commissioner, and added some few sections thereto. This manuscript, as amended and revised by the committee, was reported to the Legislature, and as revised and reported, was adopted by the Legislature, with one amendment, which was, striking out of the manuscript the section thereof corresponding to section 1370 of the Code of 1896. (See act approved July 27, 1907, p. 1 of this Code, and p. 499 of the Acts of 1907.)

It is due this committee to say that probably no committee in the history of the state ever labored more earnestly or faithfully than did this one. While the committee made many changes in the manuscript prepared by the commissioner, none were made capriciously or arbitrarily; but only when, in the opinion of the committee, the law would be made better or more certain. While the commissioner did not then, and does not now, agree with the committee in all of the changes made by it, he did agree to many of them; and the Code, as a whole, was improved by the revision of the committee.



HISTORY OF THE VARIOUS CODIFICATIONS OF STATUTES AND LAWS OF ALABAMA.

The first compilation of the laws of Alabama was Toulmin's Digest, styled, "Laws of Alabama," prepared and compiled by Harry Toulmin, Esq., in 1823.

The second compilation was that of Aikin's Digest, prepared by Hon. John G. Aikin in 1833, with a second edition thereof compiled in the year 1836.

The third compilation was that of Clay's Digest, compiled by Hon. C. C. Clay, in the year 1843.

The fourth compilation was the Code of 1852, prepared and codified by Hons. John J. Ormond, Arthur P. Bagby, and George Goldthwaite, commissioners. This was the first and only Code of Alabama, strictly speaking. The subsequent Codes, popularly so called, are both codifications of laws and compilations of statutes.

The fifth compilation was the Penal Code, prepared by Hons. George W. Stone and John W. Shepherd.

The sixth compilation of the laws was the Code of 1867, prepared by Hon. A. J. Walker.

The seventh was the Code of 1876, prepared by Hons. Wade Keyes and Fern M. Wood.

The eighth was the Code of 1886, prepared by Hon. Robert C. Brickell, Peter Hamilton, and John P. Tillman, commissioners.

The ninth was the Code of 1896, prepared by William L. Martin.

The tenth being the Code of 1907, prepared by the present commissioner, James J. Mayfield.



TABLE OF CONTENTS.

VOLUME I.

PRELIMINARY MATTER.

	PAGE
Act Adopting the Code	1
Declaration of Independence	3- 6
Articles of Confederation	7- 15
Ordinance for Government of Territory North of Ohio River (Adopted by Congress July 13, 1778)	16- 21
Act Establishing the Mississippi Territory (approved April 7, 1798)	22, 23
Act for Government of Mississippi Territory (approved May 10, 1800)	24, 25
Cession by Georgia to United States (approved April 24, 1802)	26- 29
Act Enlarging Boundaries of Mississippi Territory, Embracing Territory Once Owned by South Carolina (approved March 7, 1804)	30
Act to Enlarge the Boundary of Mississippi Territory, Embracing Territory Acquired from Spain and France (Sometimes Called Mobile District)	30
Act Establishing the Alabama Territory (approved March 3, 1817)	31- 33
Act Amending Establishment of Alabama Territory (approved April 20, 1818) ..	34, 35
Act for the Admission of Alabama into the Union (approved March 2, 1819)	35- 38
Resolution Declaring the Admission of Alabama into the Union (adopted December 14, 1819)	39
Reconstruction Acts (approved March 2, 1867, and March 23, 1867)	39- 58
President Andrew Johnston's Veto of Reconstruction Acts (sent to House March 2, 1867)	41- 54
Constitution of the State of Alabama, 1819 (adopted August 2, 1819)	63- 83
Amendment to Constitution of 1819 (adopted January, 1830)	83- 85
Constitution State of Alabama, 1861 (adopted March 20, 1861)	86-106
Constitution State of Alabama, 1865 (adopted September 30, 1865)	107-124
Constitution of Alabama, 1868 (failed of adoption)	125-148
Constitutions of Alabama, 1875 and 1901, were placed as Prefatory Matter in the Criminal Code, Paralleled, Annotated, and Indexed, in Accordance with the Act to Provide for the Publication and Distribution of the Code, Approved July 27, 1907.	
Constitution of the United States and Amendments thereto	149-174
Index to Constitution of United States	174-216

CHAPTER 1.

Provisions Applicable to the Whole Code. 1-13.

CHAPTER 2.

Agriculture and Industries. 14-79.

	SECTIONS
ARTICLE 1.—Qualification, Duties, and Salary of the Commissioner and His Clerks	14- 23
ARTICLE 2.—Provisions Regulating the Sale of Fertilizers	24- 48
ARTICLE 3.—Cottonseed Meal, Regulation of	49, 50
ARTICLE 4.—Funds of the Department of Agriculture and Industries	51, 52
ARTICLE 5.—Agricultural Experiment Stations and Schools	53- 69

	SECTIONS
CHAPTER 2— <i>Continued.</i>	
ARTICLE 6.—Farmers' Institutes and Agricultural Fairs	70- 72
ARTICLE 7.—Appropriation for Use of Department of Agriculture and Industries	73- 75
ARTICLE 8.—Soil Surveys and Analysis	76- 79
 CHAPTER 3. 	
Annexation of West Florida to Alabama. 80, 81.	
 CHAPTER 4. 	
Bonds of State, Funding; When Payable. 82.	
 CHAPTER 5. 	
Boundaries of the State. 83-85.	
 CHAPTER 6. 	
Burial Places, Graveyards, Cemeteries, Location of. 86-97.	
 CHAPTER 7. 	
Commissioner of Deeds. 98.	
 CHAPTER 8. 	
Congressional Districts. 99, 100.	
 CHAPTER 9. 	
Coroners. 101-112.	
 CHAPTER 10. 	
Cotton Statistics. 113-120.	
 CHAPTER 11. 	
Counties. 121-207.	
ARTICLE 1.—Names of	121- 123
ARTICLE 2.—New Counties	124- 127
ARTICLE 3.—Property of, Buildings, Courthouses, Jails, etc.	128- 145
ARTICLE 4.—Claims, Debts, and Demands Against County	146- 154
ARTICLE 5.—County Indebtedness, Limited	155
ARTICLE 6.—Laws of County Codified	156
ARTICLE 7.—Assessment Maps, Plats, or Abstract of County Boundaries....	157
ARTICLE 8.—County Bonds; Election as to Issue.....	158- 174
ARTICLE 9.—County Sites and Courthouses, Changing and Locating; Election for	175- 207
 CHAPTER 12. 	
County Treasurer. 208-218.	
 CHAPTER 13. 	
Dentists. 219-227.	
 CHAPTER 14. 	
Dispensaries. 228-289.	
ARTICLE 1.—Dispensary Local Option Law	228- 243
ARTICLE 2.—Establishing, Maintaining, and Operating Dispensaries.....	244- 288
ARTICLE 3.—Profits May be Divided Between Cities and Counties	289

CHAPTER 15.

Elections. 290-511.

	SECTIONS
ARTICLE 1.—Electors and Voters; Who Are and Who Are Not.....	290- 297
ARTICLE 2.—Elector, Privileged from Arrest	298, 299
ARTICLE 3.—Registration	300- 330
ARTICLE 4.—What Officers Elected; Time and Place of Election.....	331- 338
ARTICLE 5.—Precincts, Polling Places, and Boxes	339- 346
ARTICLE 6.—Officers of Elections, Appointment and Duties of.....	347- 353
ARTICLE 7.—Elections, Conduct and Management of	354- 372
ARTICLE 8.—Ballots, Form and Character of; Nominee May Decline.....	373- 380
ARTICLE 9.—Ballot or Ticket, How Fixed or Voted; Conduct of Elections..	381- 406
ARTICLE 10.—Challenge of Voter	407- 411
ARTICLE 11.—Sheriff Must Preserve Order at Elections	412
ARTICLE 12.—Counting of Votes by Inspectors	413- 419
ARTICLE 13.—Canvassing Returns of Elections for County.....	420- 421
ARTICLE 14.—Canvass of Returns and Declaration of Result for State Officers	422- 427
ARTICLE 15.—Tie, How Decided	428- 432
ARTICLE 16.—Penalty for Failing to Make Returns	433, 434
ARTICLE 17.—Certificate of Election	435
ARTICLE 18.—Elections on Amendments to the Constitution	436-438
ARTICLE 19.—Special Elections	439- 445
ARTICLE 20.—Electors for President and Vice-President; Representatives in Congress	446- 451
ARTICLE 21.—Elections in New Counties	452- 454
ARTICLE 22.—Contesting Elections; Provisions Common to All Contests....	455- 459
ARTICLE 23.—Contesting Elections of Members of the Legislature, Chan- cellor, Circuit Judge, any Office Filled by the Vote of a Single County, Justice of the Peace, or Constable.....	460- 477
ARTICLE 24.—Contesting Elections of State Officers	478- 491
ARTICLE 25.—County Local Option Prohibition Law	492- 511

CHAPTER 16.

Elections, Primary. 512-537.

CHAPTER 17.

Embalmers. 538-545.

CHAPTER 18.

Examiners of Public Accounts. 546-549.

CHAPTER 19.

Executive Department. 550-655.

ARTICLE 1.—Governor	550- 572
ARTICLE 2.—Secretary of State	573- 596
ARTICLE 3.—State Auditor	597- 615
ARTICLE 4.—State Treasurer	616- 633
ARTICLE 5.—Attorney-General	634- 640
ARTICLE 6.—Depositaries for State Funds	641- 655

CHAPTER 20.

Game and Fish; Department of Established. 656-688.

CHAPTER 21.

Geological Survey. 689-697.

CHAPTER 22.

Health and Quarantine. 698-792.

	SECTIONS
ARTICLE 1.—Health Laws and Regulations	698- 733
ARTICLE 2.—County and Municipal Hospitals	734, 735
ARTICLE 3.—Quarantine Laws and Regulations	736- 756
ARTICLE 4.—Live Stock Sanitary Board	757- 770
ARTICLE 5.—Sanitorium for Consumption and Tuberculosis	771- 792

CHAPTER 23.

History and Archives. 793-810.

CHAPTER 24.

Horticulture. 811-826.

CHAPTER 25.

Immigration. 827-837.

CHAPTER 26.

Insane Hospitals. 838-882.

ARTICLE 1.—Insane Hospitals	838- 878
ARTICLE 2.—Swamp and Overflowed Lands	879- 882

CHAPTER 27.

Lands of the State. 883-899.

ARTICLE 1.—Salt Springs	883- 887
ARTICLE 2.—Grants by the State	888- 891
ARTICLE 3.—Land Agent	892- 897
ARTICLE 4.—Lands Ceded by State to United States	898, 899

CHAPTER 28.

Legislature. 900-928.

CHAPTER 29.

Militia. 929-998.

CHAPTER 30.

Mines and Mining. 999-1038.

CHAPTER 31.

Monument Commission. 1039-1045.

CHAPTER 32.

Municipal Corporations. 1046-1460.

ARTICLE 1.—Municipalities Declared Bodies Corporate and Classified.....	1046-1052
ARTICLE 2.—Incorporation, Mode of; Election for	1053-1069
ARTICLE 3.—Limits; Annexation and Boundaries of Municipalities; Extension of	1070-1074
ARTICLE 4.—Extension of Limits of Cities of Twenty-five Thousand Inhab- itants; Rights, Powers, and Duties of Cities so Extended	1075-1125
ARTICLE 5.—Consolidating Municipalities	1126-1132
ARTICLE 6.—Annexation and Merger of Contiguous Municipalities; Alter- nate Mode	1133-1155

CHAPTER 32— <i>Continued.</i>	SECTIONS
ARTICLE 7.—Absorbed, Merged or Annexed Corporations; Administration of Affairs After Absorption	1156-1163
ARTICLE 8.—Elections, Municipal	1164-1171
ARTICLE 9.—Officers, Removal, Impeachment, etc.	1172-1191
ARTICLE 10.—Council, Powers and Duties of	1192-1198
ARTICLE 11.—Clerks of Municipalities; Powers and Duties of	1199-1203
ARTICLE 12.—Treasurer, Powers, Rights, and Duties of	1204-1207
ARTICLE 13.—Health Laws and Regulations	1208-1212
ARTICLE 14.—Recorders and Recorder's Courts	1213-1229
ARTICLE 15.—Police Jurisdiction, Territorial	1230
ARTICLE 16.—Police Commission	1231, 1232
ARTICLE 17.—Board of Public Works	1233-1250
ARTICLE 18.—Ordinances and Resolution	1251-1259
ARTICLE 19.—Powers, Authorities, and Duties of Municipalities.....	1260-1295
ARTICLE 20.—Railroad Tracks, Bridges, Viaducts, Tunnels, etc., Provided for	1296-1301
ARTICLE 21.—Drainage, Sewers, etc.	1302-1308
ARTICLE 22.—Cemeteries, Graveyards, Burial Grounds, Care and Maintenance of	1309, 1310
ARTICLE 23.—Taxation	1311-1337
ARTICLE 24.—License to Carry on Business, Trades, etc.	1338-1347
ARTICLE 25.—Schools and Education	1348-1358
ARTICLE 26.—Public Improvements, Power to Construct and Maintain.....	1359-1420
ARTICLE 27.—Municipal Bonds for Public Utilities	1421-1435
ARTICLE 28.—Bonded Indebtedness, Settlement and Refunding of	1436-1438
ARTICLE 29.—Eminent Domain, Condemnation; Rights and Powers as to....	1439-1442
ARTICLE 30.—Foreign Municipal Corporations of Adjoining States; Powers to Acquire Water Rights	1443-1449
ARTICLE 31.—Provisions Applicable to All Cities and Towns	1450-1460

CHAPTER 33.

Offices and Officers. 1461-1571.

ARTICLE 1.—Terms of Executive and Judicial Officers Defined; Installation.	1461-1466
ARTICLE 2.—Persons Ineligible to Office; Residence and Commission; Filling Vacancies	1467-1474
ARTICLE 3.—Oaths of Office	1475-1482
ARTICLE 4.—Official Bonds	1483-1506
ARTICLE 5.—Bonds by Guarantee Companies	1507-1524
ARTICLE 6.—Additional Bonds and New Sureties in Certain Cases.....	1525-1539
ARTICLE 7.—The Discharge of Sureties on Official Bonds in Certain Cases..	1540-1548
ARTICLE 8.—Books, Papers, Property, and Money of Public Officers Delivered to Successor	1549-1555
ARTICLE 9.—Vacating Office, Death, Resignation, Insanity, Removal.....	1556-1568
ARTICLE 10.—Salaries of Officers: When Payable	1569-1571

CHAPTER 34.

Oils, Illuminating. 1572-1580.

CHAPTER 35.

Oysters. 1581-1592.

ARTICLE 1.—Planting and Taking	1581-1586
ARTICLE 2.—Taking Oysters for Canning Regulated	1587-1592

CHAPTER 36.

Pardoning Board. 1593-1597.

CHAPTER 37.

Paupers. 1598-1617.

CHAPTER 38.

Pharmacists; Examination to Practice. 1618-1625

CHAPTER 39.

Physicians, Examination to Practice Medicine. 1626-1646.

CHAPTER 40.

Public Printing. 1647-1677.

CHAPTER 41.

Schools. 1678-1993.

	SECTIONS
ARTICLE 1.—Public School Fund	1678, 1679
ARTICLE 2.—Officers and Boards of Public Schools	1680
ARTICLE 3.—Superintendent of Education	1681-1688
ARTICLE 4.—Townships Abolished	1689
ARTICLE 5.—Townships and School Districts Incorporated	1690
ARTICLE 6.—School Districts and Redistricting Boards; How Created....	1691-1696
ARTICLE 7.—District Trustees; Election, Powers, and Duties of.....	1697-1701
ARTICLE 8.—County Superintendents of Education	1702-1711
ARTICLE 9.—County Boards of Education; Election, Powers, and Duties of.	1712-1716
ARTICLE 10.—Enumeration or Census of School Children.....	1717, 1718
ARTICLE 11.—Teachers; Qualifications, License, Powers, and Duties of....	1719-1750
ARTICLE 12.—Teachers' Institutes	1751-1754
ARTICLE 13.—Children and Pupils Eligible to Public Schools.....	1755-1757
ARTICLE 14.—Examinations in Public Schools	1758
ARTICLE 15.—Scholastic Periods	1759
ARTICLE 16.—Apportionment of School Fund; Disbursement	1760-1780
ARTICLE 17.—School Lands; Lease and Sale	1781-1804
ARTICLE 18.—Text-book Commission; Members; Appointment of.....	1805-1850
ARTICLE 19.—Election for Special Tax for Public Schools.....	1851-1860
ARTICLE 20.—High Schools for Counties	1861-1868
ARTICLE 21.—University of Alabama	1869-1892
ARTICLE 22.—Cement Laboratory	1893
ARTICLE 23.—Summer School	1894-1898
ARTICLE 24.—Alabama Polytechnic Institute	1899-1911
ARTICLE 25.—Alabama Industrial School for Girls	1912-1932
ARTICLE 26.—Alabama Institute for the Deaf	1933-1942
ARTICLE 27.—Alabama Academy for the Blind	1943-1948
ARTICLE 28.—Alabama School for Negro Deaf Mutes and Blind.....	1949-1953
ARTICLE 29.—Reformatory and Industrial School	1954-1970
ARTICLE 30.—Preparatory School for Mines and Mining	1971-1974
ARTICLE 31.—School Houses	1975-1993

CHAPTER 42.

Seal of the State. 1994.

CHAPTER 43.

Soldiers and Sailors. 1995-2055.

ARTICLE 1.—Pensions for Confederate Soldiers and Sailors.....	1995-2037
ARTICLE 2.—Home for Confederate Soldiers and Sailors	2038-2053
ARTICLE 3.—Evidence and Proof of Service in Confederate Army.....	2054-2055

CHAPTER 44.

State; Sovereignty and Jurisdiction of. 2056-2059.

CHAPTER 45.

Taxation. 2060-2412.

	SECTIONS
ARTICLE 1.—Definition of Terms	2060
ARTICLE 2.—Exemption from Taxation	2061-2073
ARTICLE 3.—Poll Tax, Subjects, Rates, Maturity, and Lien of Taxes	2074-2098
ARTICLE 4.—Tax Assessor; Election, Qualification, and Compensation; Deputies	2094-2101
ARTICLE 5.—Assessments; When and How Made; Duties of Taxpayer, Assessor, and Appraisers; Filing Lists and Books of Assessment and Notice Thereof; When Assessor Sus- pended	2102-2132
ARTICLE 6.—Assessments Against Railroad and Telegraph Companies; State Board of Assessment, Its Powers and Duties.....	2133-2145
ARTICLE 7.—Powers and Duties of Court of County Commissioners, and Duties of Judge of Probate Touching Assessments; Levy of County Taxes	2146-2159
ARTICLE 8.—Tax Collector, Election, Qualification and Compensation; Deputies	2160-2168
ARTICLE 9.—Collecting, Reporting, and Paying Over Taxes; Interest; Escaped Taxes, Errors; Insolvencies; Litigated Taxes; Settlements; When Collector Suspended	2169-2209
ARTICLE 10.—State Tax Commission	2210-2267
ARTICLE 11.—Sale of Lands for Payment of Taxes; Docket, Notice, Decree, and Conduct of Sale; Certificate and Deed to Purchaser..	2268-2299
ARTICLE 12.—Rights and Remedies of Purchasers of Land of Tax Sale; Statute of Limitations	2300-2312
ARTICLE 13.—Redemption of Lands Sold for Taxes; Sales by the State.....	2313-2328
ARTICLE 14.—Canceling Erroneous Sales and Refunding Purchase Money...	2329-2331
ARTICLE 15.—Erroneous Sales	2332-2339
ARTICLE 16.—To Refund Money Paid for Taxes Not Due	2340-2347
ARTICLE 17.—General Duties of Auditor in Supervising the Enforcement of the Revenue Laws; Miscellaneous Provisions	2348-2360
ARTICLE 18.—License, Taxes; from Whom and for What Businesses Required; Prices; County Levy	2361-2363
ARTICLE 19.—Franchise Tax of Common Carriers	2364-2390
ARTICLE 20.—Franchise Tax on Foreign Corporations	2391-2400
ARTICLE 21.—Issue and Expiration of Licenses; Blanks and Forms; Records, Payments, and Reports; Refunding License Money.....	2401-2412

CHAPTER 46.

United States, Cession and Condemnation of Lands to. 2413-2428.

CHAPTER 47.

Weights and Measures. 2429-2439.



ACT ADOPTING THE CODE.

No. 409.

H. B. 939.

AN ACT

To adopt a code of laws for the State of Alabama.

SECTION 1. *Be it enacted by the Legislature of Alabama,* That the work prepared by James J. Mayfield under "An act to provide for the revision, codification, digesting, and promulgating of the public statutes of this state, both civil and criminal," approved September 30th, 1903, is as the same has been revised, amended, corrected, and reported by the joint committee of the two houses of the Legislature, which is shown upon the sheets of manuscript signed by the chairman of the joint committee, adopted and enacted as the Code of Alabama, and shall regulate completely, so far as a statute can, the subject to which it relates, and shall go into force and be operative on the thirtieth day after the date of the governor's proclamation announcing its publication.

SEC. 2. No act passed on or after the ninth day of July, 1907, shall be repealed or affected in any manner by the adoption of this Code. All acts amending sections of the Code of 1896, which sections have been incorporated in this Code, shall be printed in the place of and as such sections.

SEC. 3. All acts of the present session of the legislature passed on and after July 9th, 1907, which are of a general nature, shall be incorporated in the Code at the appropriate place with reference to its subject-matter, and become and be published as a part of the Code, so that every statute of a general nature of this state, in force at the time of publication of the Code, shall be incorporated therein.

SEC. 4. The section of the manuscript corresponding to section 1370 of the Code of 1896, be, and is hereby, stricken out, and not carried into the new Code.

Approved July 27, 1907.



DECLARATION OF INDEPENDENCE.

IN CONGRESS, JULY 4, 1776.

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA.

WHEN, in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident:—that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws the most wholesome and necessary for the public good. He has forbidden his governors to pass laws of

immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended he has utterly neglected to attend to them. He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature—a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolution, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the State remaining, in the meantime, exposed to all the dangers of invasion from without and convulsions within.

He has endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers, to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these States:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond seas to be tried for pretended offenses:

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our government:

For suspending our own legislatures, and declaring themselves invested with powers to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections among us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms: our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them, from time to time, of attempts by their legislature to extend an unwarranted jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind—enemies in war; in peace, friends.

We, therefore, the representatives of the UNITED STATES OF AMERICA, in GENERAL CONGRESS assembled, appealing to the Supreme Judge of the World for the rectitude of our intentions, do, in the name and by authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved; and that, as *FREE AND INDEPENDENT STATES*, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which *INDEPENDENT STATES* may of right do. And, for the support of this declaration, with a firm reliance on the protection of *DIVINE PROVI-*

DENCE, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

JOHN HANCOCK.

**New Hampshire.*

JOSIAH BARTLETT,
WILLIAM WHIPPLE,
MATTHEW THORNTON.

Delaware.

CAESAR RODNEY,
GEORGE READ,
THOMAS MCKEAN.

Massachusetts Bay.

SAMUEL ADAMS,
JOHN ADAMS,
ROBERT TREAT PAYNE,
ELBRIDGE GERRY.

Maryland.

SAMUEL CHASE,
WILLIAM PACA,
THOMAS STONE,
CHARLES CARROLL,
OF CARROLLTON.

Rhode Island, &c.

STEPHEN HOPKINS,
WILLIAM ELLERY.

Connecticut.

ROGER SHERMAN,
SAMUEL HUNTINGTON,
WILLIAM WILLIAMS,
OLIVER WOLCOTT.

Virginia.

GEORGE WYTHE,
RICHARD HENRY LEE,
THOMAS JEFFERSON,
BENJAMIN HARRISON,
THOMAS NELSON, JR.,
FRANCIS LIGHTFOOT LEE,
CARTER BRAXTON.

New York.

WILLIAM FLOYD,
PHILIP LIVINGSTON,
FRANCIS LEWIS,
LEWIS MORRIS.

North Carolina.

WILLIAM HOOPER,
JOSEPH HEWES,
JOHN PENN.

New Jersey.

RICHARD STOCKTON,
JOHN WITHERSPOON,
FRANCIS HOPKINSON,
JOHN HART,
ABRAHAM CLARK.

South Carolina.

EDWARD RUTLEDGE,
THOMAS HEYWARD, JR.,
THOMAS LYNCH, JR.,
ARTHUR MIDDLETON.

Pennsylvania.

ROBERT MORRIS,
BENJAMIN RUSH,
BENJAMIN FRANKLIN,
JOHN MORTON,
GEORGE CLYMER,
JAMES SMITH,
GEORGE TAYLOR,
JAMES WILSON,
GEORGE ROSS.

Georgia.

BUTTON GWINNETT,
LYMAN HALL,
GEORGE WALTON.

*From a facsimile copy of the original it appears that there was nothing to indicate the state or colony from which the delegates were representatives.

ARTICLES OF CONFEDERATION.

IN CONGRESS, JULY 9, 1778.

*ARTICLES OF CONFEDERATION AND PERPETUAL UNION.

Between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

ARTICLE I.

The style of this confederacy shall be, "*The United States of America.*"

ARTICLE II.

Each state retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.

ARTICLE III.

The said states hereby severally enter into a firm league of friendship with each other for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

ARTICLE IV.

§ 1. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugi-

*(A facsimile of the original as given by the Hon. James D. Richardson in Vol. 1 of "Messages and Papers of the Presidents," has the following caption or preamble which precedes the copy as here set out:)

"To all to whom these presents shall come, we the undersigned delegates of the states adjoined to our names send greeting. Whereas the delegates of the United States of America in congress assembled did, on the fifteenth day of November, in the year of our Lord one thousand seven hundred and seventy-seven, and in the second year of the Independence of America, agree to certain articles of confederation and perpetual union between the states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia in the words following, viz.:"

tives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and egress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively; *Provided*, that such restrictions shall not extend so far as to prevent the removal of property imported into any state to any other state of which the owner is an inhabitant; *Provided, also*, that no imposition, duties or restrictions shall be laid by any state on the property of the United States, or either of them.

§ 2. If any person guilty of or charged with treason, felony, or other high misdemeanor in any state shall flee from justice and be found in any of the United States, he shall, upon the demand of the governor or executive power of the state from which he fled, be delivered up, and removed to the state having jurisdiction of his offense.

§ 3. Full faith and credit shall be given in each of these states to the records, acts, and judicial proceedings of the courts and magistrates of every other state.

ARTICLE V.

§ 1. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each state to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the year.

§ 2. No state shall be represented in congress by less than two, nor more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person being a delegate be capable of holding any office under the United States for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

§ 3. Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of these states.

§ 4. In determining questions in the United States in congress assembled, each state shall have one vote.

§ 5. Freedom of speech and debate in congress shall not be impeached or questioned in any court or place out of congress, and the members of congress shall be protected in their persons from arrests and imprisonments during the time of their going to and from and attendance on congress, except for treason, felony, or breach of the peace.

ARTICLE VI.

§ 1. No state, without the consent of the United States in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any king,

prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state; nor shall the United States in congress assembled, or any of them, grant any title of nobility.

§ 2. No two or more states shall enter into any treaty, confederation or alliance whatever, between them, without the consent of the United States in congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

§ 3. No state shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States in congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by congress to the courts of France and Spain.

§ 4. No vessels of war shall be kept up in time of peace by any state, except such number only as shall be deemed necessary by the United States in congress assembled, for the defense of such state or its trade; nor shall any body of forces be kept up by any state in time of peace, except such number only as in the judgment of the United States in congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such state; but every state shall always keep up a regular and well-disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use in public stores a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

§ 5. No state shall engage in any war without the consent of the United States in congress assembled, unless such state be actually invaded by the enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of delay till the United States in congress assembled can be consulted; nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in congress assembled, unless such state be infested by pirates, in which case vessels of war may be fitted out for that occasion and kept so long as the danger shall continue, or until the United States in congress assembled shall determine otherwise.

ARTICLE VII.

When land forces are raised by any state for the common defense, all officers of or under the rank of colonel shall be appointed by the legislature of each state respectively by whom such forces shall be raised, or in such manner as such state shall direct, and all vacancies shall be filled up by the state which first made the appointment.

ARTICLE VIII.

All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states, in proportion to the value of all land within each state, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United State in congress assembled, shall from time to time, direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states, within the time agreed upon by the United States in congress assembled.

ARTICLE IX.

§ 1. The United States in congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article, of sending and receiving ambassadors, entering into treaties and alliances; *Provided*, that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever; of establishing rules for deciding, in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated; of granting letters of marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas; and establishing courts for receiving and determining finally appeals in all cases of captures; *Provided*, that no member of congress shall be appointed a judge of any of the said courts.

§ 2. The United States in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise between two or more states concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority, or lawful agent of any state in controversy with another, shall present a petition to congress stating the matter in question and praying for a hearing, notice thereof shall be given by order of congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, congress shall name three persons out of each of the United States, and from the

list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as congress shall direct, shall, in the presence of congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which congress shall judge sufficient, or being present, shall refuse to strike, the congress shall proceed to nominate three persons out of each state, and the secretary of congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to congress, and lodged among the acts of congress, for the security of the parties concerned; *Provided*, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the state where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward;" *Provided, also*, that no state shall be deprived of territory for the benefit of the United States.

§ 3. All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdictions, as they may respect such lands, and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the congress of the United States, be finally determined, as near as may be, in the same manner, as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

§ 4. The United States in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians not members of any of the states; *Provided*, that the legislative right of any state, within its own limits, be not infringed or violated; establishing and regulating post-offices from one state to another throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers

of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

§ 5. The United States in congress assembled shall have authority to appoint a committee, to sit in the recess of congress, to be denominated "*A Committee of the States,*" and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction; to appoint one of their number to preside; *Provided,* That no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state, which requisition shall be binding; and thereupon the legislature of each state shall appoint the regimental officers, raise the men, clothe, arm and equip them, in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in congress assembled; but if the United States in congress assembled shall, on consideration of circumstances, judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed and equipped in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, clothe, arm and equip as many of such extra number as they judge can be safely spared, and the officers and men so clothed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in congress assembled.

§ 6. The United States in congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine states assent to

the same, nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the vote of a majority of the United States in congress assembled.

§ 7. The congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state, on any question, shall be entered on the journal when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several states.

ARTICLE X.

The committee of the states, or any nine of them, shall be authorized to execute, in the recess of congress, such of the powers of congress as the United States in congress assembled, by the consent of nine states shall, from time to time, think expedient to vest them with; *Provided*, that no power be delegated to the said committee for the exercise of which, by the Articles of Confederation, the voice of nine states, in the congress of the United States assembled, is requisite.

ARTICLE XI.

Canada acceding to this confederation, and joining in the measures of the United States, shall be admitted into and entitled to all the advantages of this Union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine states.

ARTICLE XII.

All bills of credit emitted, moneys borrowed, and debts contracted by or under the authority of congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for the payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ARTICLE XIII.

Every state shall abide by the determination of the United States in congress assembled, on all questions which by this confederation are submitted to them; and the articles of this confederation shall be inviolably observed by every state, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless

such alteration be agreed to in a congress of the United States, and be afterward confirmed by the legislatures of every state.

And whereas, it hath pleased the great Governor of the world to incline the hearts of the legislatures we respectfully represent in congress, to approve of, and to authorize us to ratify the said Articles of Confederation and perpetual union. KNOW YE, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and perpetual union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determination of the United States in congress assembled, on all questions which by the said confederation are submitted to them; and that the articles thereof shall be inviolably observed by the states we respectfully represent, and that the union shall be perpetual. In witness whereof, we have hereunto set our hands in congress.

Done at Philadelphia in the State of Pennsylvania, the 9th day of July, in the year of our Lord, 1778, and in the third year of the Independence of America.

**New Hampshire.*

JOSIAH BARTLETT,
JOHN WENTWORTH, JR.

Massachusetts Bay.

JOHN HANCOCK,
SAMUEL ADAMS,
ELBRIDGE GERRY,
FRANCIS DANA,
JAMES LOVEL,
SAMUEL HOLTEN,
WILLIAM ELLERY,
HENRY MARCHANT,
JOHN COLLINS.

New Jersey.

JNO. WITHERSPOON,
NATH. SCUDDER.

Connecticut.

ROGER SHERMAN,
SAMUEL HUNTINGTON,
OLIVER WOLCOTT,
TITUS HOSMER,
ANDREW ADAMS.

New York.

JAS. DUANE,
FRA. LEWIS,
WM. DUER,
GOUV. MORRIS.

Pennsylvania.

ROBERT MORRIS,
DANIEL ROBERDEAU,
JONA. BAYARD SMITH,
WILLIAM CLINGAN,
JOSEPH REED.

*From a facsimile copy of the original it appears that instead of the name of the state only being opposite the names of the delegates from the respective states, the following phrase was written in the original opposite the names of the delegates from each state: "On the part and in behalf of the state of New Hampshire," the name of the respective state being substituted for New Hampshire.

Delaware.

THOS. M'KEAN,
JOHN DICKINSON,
NICHOLAS VANDYKE.

North Carolina.

JOHN PENN,
CORNS. HARNETT,
JNO. WILLIAMS.

Maryland.

JOHN HANSON,
DANIEL CARROLL.

South Carolina.

HENRY LAURENS,
WILLIAM HENRY DRAYTON,
JNO. MATTHEWS,
RICHARD HUTSON,
THOMAS HEYWARD, JR.

Virginia.

RICHARD HENRY LEE,
JOHN BANNISTER,
THOMAS ADAMS,
JNO. HARVIE,
FRANCIS LIGHTFOOT LEE.

Georgia.

JNO. WALTON,
EDW. TELFAIR,
EDWD. LANGWORTHY.

ORDINANCE OF 1787.

AN ORDINANCE.

For the government of the Territory of the United States northwest of the River Ohio.

Be it ordained by the United States in Congress assembled, That the said territory, for the purpose of temporary government, be one district, subject, however, to be divided into two districts, as the future circumstances may, in the opinion of congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates both of residents and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child, in equal parts, the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin in equal degree, and among collaterals, the children of a deceased brother or sister of an intestate shall have, in equal parts among them, their deceased parent's share, and there shall, in no case, be a distinction between kindred of the whole and half blood, saving, in all cases, to the widow of the intestate her third part of the real estate for life, and one-third of the personal estate; and this law relative to descents and dower shall remain in full force until altered by the legislature of the district; and until the governor and judges shall adopt laws, as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be (being of full age), and attested by three witnesses; and real estates may be conveyed by lease and releases, or bargain and sale, signed, sealed and delivered by the person (being of full age) in whom the estates may be, and attested by two witnesses; *Provided,* that such wills be duly proved, and such conveyances be acknowledged or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskasias, St. Vincents, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed from time to time, by congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by congress. He shall reside in the district and have a freehold estate therein in one thousand acres of land, while in the exercise of his office.

There shall be appointed from time to time, by congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked. He shall reside in the district, and have a freehold estate therein in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings, every six months, to the secretary of congress.

There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common-law jurisdiction, and reside in the district, and shall have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commission shall continue in force during good behavior.

The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original states, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to congress from time to time; which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor for the time being shall be commander-in-chief of the militia, appoint and commission all officers in the same below the rank of general officers. All general officers shall be appointed and commissioned by congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order of the same.

After the general assembly shall be organized, the powers and duties of the magistrates and other civil officers shall be regulated and defined by the said assembly, but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished into counties and townships,

subject, however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships to represent them in the general assembly; *Provided*, that for every five hundred free male inhabitants there shall be one representative, and so on, progressively with the number of free male inhabitants, shall the right of representation increase until the number of representatives shall amount to twenty-five; after which, the number and proportion of representatives shall be regulated by the legislature; *Provided*, that no person be eligible or qualified to act as a representative unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years, and, in either case, shall likewise hold in his own right, in fee simple, two hundred acres of land within the same; *Provided, also*, that a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected shall serve for the term of two years; and in case of the death of a representative or removal from office, the governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by congress, any three of whom to be a quorum; and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and when met they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to congress, five of whom congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to congress, one of which congress shall appoint and commission for the residue of the term; and every five years, four months at least before the expiration of the time of service of the members of the council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to congress, five of whom congress shall appoint and commission to serve as members of the council five years, unless sooner removed.

And the governor, legislative council and house of representatives shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared.

And all bills passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent, but no bill or legislative act whatever shall be of any force without his assent.

The governor shall have power to convene, prorogue, and dissolve the general assembly when, in his opinion, it shall be expedient.

The governor, judges, legislative council, secretary, and such other officers as congress shall appoint in the district, shall take an oath or affirmation of fidelity and of office, the governor before the president of congress, and all other officers before the governor.

As soon as a legislature shall be formed in the district, the council and house, assembled in one room, shall have authority, by joint ballot, to elect a delegate to congress, who shall have a seat in congress, with the right of debating, but not of voting during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions and governments which forever hereafter shall be formed in the said territory; to provide, also, for the establishment of states, and permanent government therein, and for their admission to a share in the Federal councils on an equal footing with the original states, at as early a period as may be consistent with the general interest—

It is hereby ordained and declared by the authority aforesaid, That the following articles shall be considered as articles of compact between the original states and the people and states in the said territory, and forever remain unalterable, unless by common consent, to wit:

ARTICLE 1. No person demeaning himself in a peaceable, orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.

ART. 2. The inhabitants of said territory shall always be entitled to the benefits of the writ of *habeas corpus*, and of the trial by jury; of a proportionate representation of the people in the legislature; and of judicial proceedings according to the course of the common law. All persons shall beailable, unless for capital offenses where the proof shall be evident or the presumption great.

All fines shall be moderate; no cruel or unusual punishment shall be inflicted.

No man shall be deprived of his liberty or property, but by judgment of his peers, or the law of the land; and, should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full com-

pensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or to have force in the said territory, that shall, in any manner whatever, interfere with, or affect, private contracts, or engagements, bona fide and without fraud, previously formed.

ART. 3. Religion, morality and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded, or disturbed, unless in just and lawful wars, authorized by congress; but laws founded in justice and humanity, shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ART. 4. The said territory, and the state which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made, and to all the acts and ordinances of the United States in congress assembled conformable thereto.

The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts, contracted, or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by congress according to the same common rule and measure by which apportionment thereof shall be made on other states; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district, or districts, or new states, as in the original states, within the time agreed upon by the United States in congress assembled. The legislatures of those districts, or new states, shall never interfere with the primary disposal of the soil by the United States in congress assembled, nor with any regulations congress may find necessary for securing the title in such soil to bona fide purchasers. No tax shall be imposed on lands, the property of the United States, and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax imposed, or duty therefor.

ART. 5. There shall be formed in the said territory not less than three nor more than five states, and the boundaries of the states, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit:

The Western state in the said territory shall be bounded by the Mississippi, the Ohio and Wabash rivers, a direct line drawn from

the Wabash and Port Vincents due north to the territorial line between the United States and Canada, and by said territorial line to the Lake of the Woods and Mississippi.

The Middle state shall be bounded by the said direct line, the Wabash, from Port Vincents to the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line.

The Eastern state shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line.

Provided, however, and it is further understood and declared, That the boundaries of these three states shall be subject so far to be altered that, if congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan, and when any of the said states shall have sixty thousand free inhabitants therein, such state shall be admitted, by its delegates, into the congress of the United States, on an equal footing with the original states, in all respects whatever, and shall be at liberty to form a permanent constitution and state government; *Provided,* the constitution and government so to be formed shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand.

ART. 6. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted; *Provided always,* that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor, or service, as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the twenty-third of April, seventeen hundred and eighty-four, relative to the subject of this ordinance, be, and the same are hereby, repealed and declared null and void.

Adopted July 13, 1787.

ACT ESTABLISHING THE MISSISSIPPI TERRITORY.

AN ACT

For the amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory.

SECTION 1. *Be it enacted by the senate and house of representatives of the United States of America in congress assembled,* That the president of the United States be, and he hereby is, authorized to appoint three commissioners; any two of whom shall have power to adjust and determine with such commissioners as may be appointed under the legislative authority of the State of Georgia, all interfering claims of the United States and that state, to territory situate west of the river Chattahoochee, north of the thirty-first degree of north latitude, and south of the cession made to the United States by South Carolina: And also to receive any proposals for the relinquishment or cession of the whole or any part of the other territory claimed by the State of Georgia, and out of the ordinary jurisdiction thereof.

SEC. 2. *Be it further enacted,* That all the lands thus ascertained as the property of the United States, shall be disposed of in such manner as shall be hereafter directed by law; and the net proceeds thereof shall be applied to the sinking and discharging the public debt of the United States, in the same manner as the proceeds of the other public lands in the territory northwest of the river Ohio.

SEC. 3. *Be it further enacted,* That all that tract of country bounded on the west by the Mississippi; on the north by a line to be drawn due east from the mouth of the Yasous to the Chattahoochee river; on the east by the river Chattahoochee; and on the south by the thirty-first degree of north latitude, shall be, and hereby is constituted one district, to be called the Mississippi Territory; and the president of the United States is hereby authorized to establish therein a government in all respects similar to that now exercised in the territory northwest of the river Ohio, excepting and excluding the last article of the ordinance made for the government thereof by the late congress on the thirteenth day of July one thousand seven hundred and eighty-seven, and by and with the advice and consent of the senate to appoint all the necessary officers therein, who shall respectively receive the same compensation for their services, to be paid in the same manner as by law established for similar officers in the territory northwest of the

river Ohio; and the powers, duties and emoluments of a superintendent of Indian affairs for the southern department, shall be united with those of governor: *Provided always*, that if the president of the United States should find it most expedient to establish this government in the recess of congress, he shall nevertheless have full power to appoint and commission all officers herein authorized; and their commissions shall continue in force until the end of the session of congress next ensuing the establishment of the government.

SEC. 4. *Be it further enacted*, That the territory hereby constituted one district for the purpose of government, may at the discretion of congress be hereafter divided into two districts, with separate territorial governments in each, similar to that established by this act.

SEC. 5. *Be it further enacted*, That the establishment of this government shall in no respect impair the right of the State of Georgia, or of any person or persons either to the jurisdiction or the soil of the said territory, but the rights and claims of the said state and of all persons interested, are hereby declared to be as firm and available, as if this act had never been made.

SEC. 6. *And be it further enacted*, That from and after the establishment of the said government, the people of the aforesaid territory, shall be entitled to and enjoy all and singular the rights, privileges and advantages granted to the people of the territory of the United States, northwest of the river Ohio, in and by the aforesaid ordinance of the thirteenth day of July, in the year one thousand seven hundred and eighty-seven, in as full and ample a manner as the same are possessed and enjoyed by the people of the said last-mentioned territory.

SEC. 7. *And be it further enacted*, That from and after the establishment of the aforesaid government, it shall not be lawful for any person or persons to import or bring into the said Mississippi territory, from any port or place without the limits of the United States, or to cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing any slave or slaves, and that every person so offending, and being thereof convicted before any court within the said territory, having competent jurisdiction, shall forfeit and pay, for each and every slave so imported or brought, the sum of three hundred dollars; one moiety for the use of the United States, and the other moiety for the use of any person or persons who shall sue for the same; and that every slave, so imported and brought, shall thereupon become entitled to, and receive his or her freedom.

SEC. 8. *And be it further enacted*, That the sum of ten thousand dollars be, and hereby is appropriated, for the purpose of enabling the president of the United States to carry into effect the provisions of this act; and that the said sum be paid out of any monies in the treasury not otherwise appropriated.

Approved April 7, 1798.

ACT FOR GOVERNMENT OF MISSISSIPPI TERRITORY.

AN ACT

Supplemental to the Act entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi territory."

SECTION 1. *Be it enacted by the senate and house of representatives of the United States of America in congress assembled,* That so much of the ordinance of congress of the thirtieth of July, one thousand seven hundred and eighty-seven, and of the act of congress of the seventh of August, one thousand seven hundred and eighty-nine, providing for the government of the territory of the United States north-west of the river Ohio, as relates to the organization of a general assembly therein, and prescribes the powers thereof, shall forthwith operate and be in force in the Mississippi territory; *Provided,* that until the number of free male inhabitants of full age, in the said territory, shall amount to five thousand, there shall not be returned to the general assembly more than nine representatives.

SEC. 2. *And be it further enacted,* That until the number of free male inhabitants of full age in the Mississippi territory shall amount to five thousand, the county of Adams shall be entitled to choose four representatives to the general assembly, the county of Pickering four, and the Tensaw and Tombigbee settlements, one.

SEC. 3. *And be it further enacted,* That the first election, for representatives to the general assembly, shall be on the fourth Monday in July next, and that all subsequent elections shall be regulated by the legislature.

SEC. 4. *And be it further enacted,* That it shall be the duty of the governor of the Mississippi territory, to cause the said election to be holden on the day aforesaid, at the most convenient place in the counties and settlements aforesaid, and to nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who may have been duly elected.

SEC. 5. *And be it further enacted,* That the representatives shall be convened by the governor at the town of Natchez, on the fourth Monday in September next.

SEC. 6. *And be it further enacted,* That so soon as the number of free male inhabitants of full age shall amount to, or exceed five thousand, the number of representatives to the general assembly shall be

determined, and the apportionment made in the way prescribed in the ordinance.

SEC. 7. *And be it further enacted*, That nothing in this act shall in any respect impair the right of the State of Georgia to the jurisdiction, or of the said state, or of any person or persons, to the soil of the said territory, but the rights and claims of the said state, and all persons interested, are hereby declared to be as firm and available as if this act had never been made.

SEC. 8. *And be it further enacted*, That the general assembly shall meet at least once in every year, and such meeting shall be on the first Monday of December, unless they shall by law appoint a different day; *Provided*, that the governor shall have the power on extraordinary occasions to convene the general assembly.

SEC. 9. *And be it further enacted*, That neither house during the session of the general assembly shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 10. *And be it further enacted*, That it shall be lawful for the commissioners appointed, or who may hereafter be appointed on the part of the United States, in pursuance of the act, entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi territory," or any two of them, finally to settle by compromise with the commissioners, which have been or may be appointed by the State of Georgia, any claims mentioned in said act, and to receive in behalf of the United States a cession of any lands therein mentioned, or of the jurisdiction thereof, on such terms as to them shall appear reasonable; and also, that the said commissioners on the part of the United States, or any two of them, be authorized to inquire into the claims which are or shall be made by settlers or any other person whatsoever, to any part of the aforesaid lands, and to receive from such settlers and claimants any propositions of compromise which may be made by them, and lay a full statement of the claims and the propositions which may be made to them by the settlers or claimants to any part of the said lands, together with their opinion thereon, before congress, for their decision thereon, as soon as may be; *Provided*, that the settlement shall be made and completed before the fourth day of March, one thousand eight hundred and three; *And provided also*, that the said commissioners shall not contract for the payment of any money from the treasury of the United States to the State of Georgia, other than the proceeds of the same lands.

Approved May 10, 1800.

CESSION BY GEORGIA TO THE UNITED STATES.

ARTICLES OF CESSION AND AGREEMENT.

Entered into on the fourteenth day of April, one thousand eight hundred and two, between the commissioners appointed on the part of the United States, by virtue of an act entitled, "An act for the amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory," and of the act supplemental to the last-mentioned; act, on the one part; and the commissioners appointed on the part of the State of Georgia, by virtue of an act entitled, "An act to carry the twenty-third section of the first article of the constitution into effect," and of the act to amend the last-mentioned act, on the other part.

ARTICLE I.

The State of Georgia cedes to the United States all the right, title and claim which the said state has to the jurisdiction and soil of the lands situated within the boundaries of the United States south of the State of Tennessee, and west of a line beginning on the western bank of the Chattahoochee river, where the same crossed the boundary line between the United States and Spain, running thence up the said river Chattahoochee, and along the western bank thereof, next above the place where a certain creek or river called "Uche" (being the first considerable stream on the western side, above the Cusseta and Coweta towns), empties into the said Chattahoochee river; thence in a direct line to Nickajack, on the Tennessee river; then crossing the said last-mentioned river, and thence running up the said Tennessee river, and along the western bank thereof, to the southern boundary line of the State of Tennessee; upon the following express conditions, and subject thereto, that is to say:

1. That out of the first net proceeds of the sale of the lands thus ceded, which net proceeds shall be estimated by deducting from the gross amount of sales the expenses incurred in surveying, and incident to the sale, the United States shall pay out of their treasury one mil-

lion, two hundred and fifty thousand dollars to the State of Georgia, as a consideration for the expenses incurred by the said state in relation to the said territory; and that for the better securing as prompt a payment of the said sum as practicable, land-office for the disposition of the vacant lands thus ceded, to which the Indian title has been, or may hereafter be extinguished, shall be opened within a twelvemonth after the assent of the State of Georgia to this agreement, as hereafter stated, shall have been declared.

2. That all persons who, on the twenty-seventh day of October, one thousand seven hundred and ninety-five, were actual settlers within the territory thus ceded, shall be confirmed in all the grants legally and fully executed prior to that day, by the former British government of West Florida, or by the government of Spain, and in the claims which may be derived from any actual survey or settlement made under the act of the State of Georgia, entitled, "An act for laying out a district of land situate on the river Mississippi, and within the bounds of this state, into a county called Bourbon," passed the seventh day of February, one thousand seven hundred and eighty-five.

3. That all lands ceded by this agreement to the United States, shall, after satisfying the above-mentioned payment of one million, two hundred and fifty thousand dollars to the State of Georgia, and the grants recognized by the preceding condition be a common fund for the use and benefit of the United States, Georgia included, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever; *Provided*, however, that the United States, for the period and until the end of one year after the assent of Georgia to the boundary establishment by this agreement shall have been declared, may in such manner as not to interfere with the above-mentioned payment to the State of Georgia, nor with the grants hereinbefore recognized, dispose of or appropriate a portion of the said lands, not exceeding five millions of acres, or of any part thereof, for the purpose of satisfying, quieting or compensating for any claims other than those hereinbefore recognized, which may be made to the said lands or any part thereof. It being fully understood that if an act of congress making such disposition or appropriation shall not be passed into a law within the above-mentioned period of one year, the United States shall not be at liberty thereafter, to cede any part of the said lands on account of claims which may be laid on the same, other than those recognized by the preceding condition, nor to compensate for the same; and in case of any such cession or compensation, the present cession of the State of Georgia to the right of soil over the lands thus ceded or compensated for, shall be considered as null and void, and the lands thus ceded or compensated for, shall revert to the State of Georgia.

4. That the United States shall, at their own expense, extinguish for the use of Georgia, as early as the same can be peaceably obtained on reasonable terms, the Indian title to the country of Tallassee, to the lands left out by the line drawn with the Creeks in the year one thousand seven hundred and ninety-eight, which had been previously granted by the State of Georgia, both which tracts had formerly been yielded by the Indians; and to the lands within the forks of Oconee and Oakmulgee rivers; for which several objects, the United States have directed that a treaty should be immediately held with the Creeks; and that the United States shall, in the same manner, also extinguish the Indian title to all the other lands within the State of Georgia.

5. That the territory thus ceded shall form a state, and be admitted as such into the Union, as soon as it shall contain sixty thousand free inhabitants, or at an earlier period if congress shall think it expedient, on the same conditions and restrictions, with the same privileges, and in the same manner as is provided in the ordinance of congress of the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the western territory of the United States; which ordinance shall, in all its parts, extend to the territory contained in the present act of cession, that article only excepted which forbids slavery.

ARTICLE II.

The United States accept the cession above mentioned, and on the conditions therein expressed; and they cede to the State of Georgia, whatever claim, right or title they may have to the jurisdiction or soil of any lands lying within the United States, and out of the proper boundaries of any other state, and situated south of the southern boundaries of the states of Tennessee, North Carolina, and South Carolina, and east of the boundary line herein above described, as the eastern boundary of the territory ceded by Georgia to the United States.

ARTICLE III.

The present act of cession or agreement shall be in force as soon as the legislature of Georgia shall have given its assent to the boundaries of this cession; *Provided*, that the said assent shall be given within six months after the date of these presents; *And provided*, that congress shall not, during the same period of six months, repeal so much of any former law as authorizes this agreement, and renders it binding and conclusive on the United States: But if either the assent of Georgia shall not be thus given, or if the law of the United States shall be thus repealed within the said period of six months, then, and in either case, these presents shall become null and void.

In faith whereof, the respective commissioners have signed these presents and affixed their seals. Done at the City of Washington in the District of Columbia, this 24th day of April, 1802.*

(Seal.) JAMES MADISON,

(Seal.) ALBERT GALLATIN,

(Seal.) LEVI LINCOLN,

Commissioners on the part of the United States.

(Seal.) JAMES JACKSON,

(Seal.) ABRAHAM BALDWIN,

(Seal.) JOHN MILLEDGE,

Commissioners on the part of the State of Georgia.

Witnesses:

J. FRANKLIN,

Senator of the United States for North Carolina.

SAMUEL A. OTIS,

Secretary of the Senate of the United States.

JOHN BECKLEY,

Clerk of House of Representatives of the United States.

(Miss. Terr. Stats. (1816) p. 35.)

*This was the Georgia cession proper. It did not embrace the strip twelve miles wide off the north boundary of the state which was the South Carolina cession, nor the southern boundary which was acquired from Spain and France, and known as the "Mobile District."

ACTS ENLARGING THE BOUNDARIES OF MISSISSIPPI TERRITORY.

AN ACT

Enlarging the boundaries of the Mississippi Territory, entitled "An act supplementary to the act entitled, "An act regulating the grants of land, providing for the disposal of the lands of the United States, south of the State of Tennessee."

SECTION 7. *And be it further enacted*, That the tract of country lying north of the Mississippi territory, and south of the State of Tennessee, and bounded on the east by the State of Georgia, and on the west by Louisiana, shall be, and the same is hereby annexed to, and made a part of the Mississippi territory.

Approved March 7, 1804.*

(2 U. S. Statutes at Large, 303.)

AN ACT

To enlarge the boundaries of the Mississippi territory.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That all that portion of territory lying east of Pearl river, west of the Peridido, and south of the thirty-first degree of latitude, be and the same is hereby annexed to the Mississippi territory; to be governed by the laws now in force therein, or which may hereafter be enacted, and the laws and ordinances of the United States relative thereto, in like manner as if the same had originally formed a part of said territory; and until otherwise provided by law, the inhabitants of the said district hereby annexed to the Mississippi territory, shall be entitled to one representative in the general assembly thereof.

Approved May 14, 1812.†

(2 U. S. Statutes at Large, 734.)

*This grant embraced a strip of land about twelve miles wide off the northern boundary of the present state, which was ceded to the United States by South Carolina in 1787.

†This grant embraced the territory acquired from Spain and France, sometimes called the "Mobile District."

ACT ESTABLISHING THE ALABAMA TERRITORY.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That all that part of the Mississippi territory which lies within the following boundaries, to wit: Beginning at the point where the line of the thirty-first degree of north latitude intersects the Perdido river, thence east to the western boundary line of the State of Georgia, thence along said line to the southern boundary of the State of Tennessee, thence west along said boundary line to the Tennessee river, thence up the same to the mouth of Bear creek, thence by a direct line to the northwest corner of Washington county, thence due south to the Gulf of Mexico, thence eastwardly, including all the islands within six leagues of the shore, to the Perdido river, and thence up the same to the beginning, shall, for the purpose of a temporary government, constitute a separate territory, and be called, "Alabama."

SEC. 2. *And be it further enacted,* That all offices which may exist, and all laws which may be in force, in said territory, within the boundaries above described, at the time this act shall go into effect, shall continue to exist, and be in force, until otherwise provided by law. And the president of the United States shall have the power to appoint a governor and secretary for the said Alabama territory, who shall respectively exercise the same power, perform the same duties, and receive for their services the same compensation, as are provided for the governor and secretary of the Mississippi territory: *Provided,* that the appointment of said governor and secretary, shall be submitted to the senate, for their advice and consent, at the next session of congress.

SEC. 3. *And be it further enacted,* That there shall be appointed an additional judge for the Mississippi territory who shall reside in the eastern part thereof, and receive the same compensation as the other judges; and that the judge appointed by virtue of an act, passed the twenty-seventh day of March, one thousand eight hundred and four, for the appointment of an additional judge for the Mississippi territory, together with the judge appointed for Madison county, and the judge to be appointed by virtue of this act, shall possess and exercise exclusive original jurisdiction in the superior courts of Washington, Baldwin, Clarke, Monroe, Montgomery, Wayne, Greene, Jackson, Mobile, Madison and of such new counties as may be formed out of them, and shall arrange the same among themselves, from time to time: *Provided,* that no judge shall sit more than twice in succession

in the same court, and that the other judges of the Mississippi territory shall exercise, as heretofore authorized by an act of congress, or of the territorial legislature, exclusive jurisdiction in the superior courts of the other counties. That a general court, to be composed of the judge appointed by virtue of the act of twenty-seventh of March, one thousand eight hundred and four, the judge appointed for Madison county, and the judge to be appointed by virtue of this act, or any two of them, shall be holden at St. Stephens, commencing on the first Mondays of January and July, annually, who shall have the same power of issuing writs of error to the superior courts of the counties mentioned in this section, or which shall hereafter be formed in the eastern division of the territory, which was given by the act for the appointment of an additional judge, passed the year one thousand eight hundred and four, to the superior court of Adams district, and which shall possess, exclusively of the courts of the several counties, the federal jurisdiction given to the superior courts of the territories, by an act passed the third day of March, one thousand eight hundred and five, entitled "An act to extend jurisdiction in certain cases to the territorial courts."

SEC. 4. *And be it further enacted*, That the governor to be appointed under the authority of this act, shall, immediately after entering into office, convene, at the town of St. Stephens, such of the members of the legislative council and house of representatives, of the Mississippi territory, as may then be the representatives from the several counties within the limits of the territory to be established by this act; and the said members shall constitute the legislative council, and the house of representatives for the aforesaid Alabama territory, whose powers, in relation to the said territory, shall be, until the expiration of the term for which they shall have been chosen, or until congress shall otherwise provide, the same in all respects as are now possessed by the legislative council, and house of representatives of the Mississippi territory; and the said legislative council, and house of representatives of the Alabama territory, so formed, shall have power to nominate six persons to the president of the United States, three of whom shall be selected by him for members of the legislative council, in addition to the number which the said territory may possess, agreeably to the foregoing provisions of this section. The said legislative council and house of representatives, shall also have power to elect a delegate to congress, who shall, in all respects, possess the same rights and immunities as other delegates from territories of the United States.

SEC. 5. *And be it further enacted*, That this act shall commence and be in force so soon as the convention, the appointment whereof has been authorized by congress at their present session, shall have formed a constitution and state government for that part of the Mississippi territory lying west of the territory herein described; of which act of convention the governor of the Mississippi, for the time being, shall give immediate notice to the president of the United States, who shall there-

upon forthwith proceed to the execution of the powers vested in him by the second section of this act; but in case said convention shall fail to form a constitution and state government, as aforesaid, then this act shall become null and void, except so far as relates to the third section thereof, which shall take effect, and be in force, from and after the passage of this act.

SEC. 6. *And be it further enacted*, That all persons who shall be in office within the territory hereby established, when the said convention shall have formed a constitution and state government, as aforesaid, shall continue to hold and exercise their offices, in all respects as if this act had never been made; and the governor and secretary of the Mississippi territory, for the time being, shall continue to exercise the duties of their respective offices in relation to the territory hereby established, until a governor and secretary shall be appointed therefor, in pursuance to this act.

SEC. 7. *And be it further enacted*, That all judicial process in the said territory of Alabama, shall be issued, and bear test as heretofore; nor shall any suit be discontinued, or the proceedings of any cause stayed, or in anywise affected by anything contained in this act, or in the act entitled "An act to enable the people in the western part of the Mississippi territory to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states."

SEC. 8. *And be it further enacted*, That the town of St. Stephens shall be the seat of government for the said Alabama territory, until it shall be otherwise ordered by the legislature thereof.

SEC. 9. *And be it further enacted*, That whatever balance may remain in the treasury of the Mississippi territory, at the time when the convention authorized to form a constitution and state government, for the western part of said territory, may have formed a constitution and state government for the same, shall be divided between the new state and territory, according to the amount which may have been paid into said treasury from the counties lying within the limits of such state and territory respectively.

Approved March 3, 1817.

(3 U. S. Stats. at Large, 371.)

ACT AMENDING ESTABLISHMENT OF ALABAMA TERRITORY.

AN ACT

To alter and amend an act, approved the third day of March, one thousand eight hundred and seventeen, entitled "An act to establish a separate territorial government for the eastern part of the Mississippi territory."

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That the judicial power of the judges of the Alabama territory, appointed, or hereafter to be appointed under the authority of the government of the United States, shall extend as well to any other county or counties which have been or may be found (formed) within the limits of said territory, as to those which are specially mentioned and named in the act entitled "An act to establish a separate territorial government for the eastern part of the Mississippi territory," approved March the third, one thousand eight hundred and seventeen. And that in such county or counties, superior courts shall be holden by said judges in the like manner and with the like powers and jurisdiction as the superior courts are now directed by law to be holden in the counties specially mentioned, as aforesaid, in the act aforesaid. And the powers of the general court of the said territory shall extend to all cases of admiralty and maritime jurisdiction: and their judgments or decrees in such cases shall be subject to appeals to the supreme court of the United States, in like manner, and upon the like terms, as appeals in similar cases are allowed and prosecuted from the judgments or decrees of the circuit courts of the United States.

SEC. 2. *And be it further enacted,* That the legislature of said territory shall have power to appoint, change, and regulate, the times and places for holding the superior courts in each of the counties of said territory, and also to prescribe the number of terms to be holden in each county: *Provided,* they do not exceed two annually.

SEC. 3. *And be it further enacted,* That so much of the said act approved March the third, one thousand eight hundred and seventeen, as provides "that no judge shall sit more than twice in succession in the same court," be, and the same is hereby, repealed.

SEC. 4. *And be it further enacted,* That the secretary of said territory, judges, members of the legislative council, members of the house

of representatives, justices of the peace, and all other officers, civil and military, who may not have taken an oath of office, shall, before they enter on the duties of their respective offices, take an oath or affirmation to support the constitution of the United States, and for the faithful discharge of the duties of their office; which oath or affirmation shall be taken before the governor of the said territory, or such person as he shall appoint and direct.

Approved April 20, 1818.

(3 U. S. Stats. at Large, 468.)

ACT FOR THE ADMISSION OF ALABAMA.

AN ACT

To enable the people of the Alabama territory to form a constitution and state government, and for the admission of such state into the Union, on an equal footing with the original states.

SECTION 1. *Be it enacted by the senate and house of representatives of the United States of America in congress assembled,* That the inhabitants of the territory of Alabama be, and they are hereby, authorized to form for themselves a constitution and state government, and to assume such name as they may deem proper; and that the said territory, when formed into a state, shall be admitted into the Union, upon the same footing with the original states, in all respects whatever.

SEC. 2. *And be it further enacted,* That the said state shall consist of all the territory included within the following boundaries, to wit: Beginning at the point where the thirty-first degree of north latitude intersects the Perdido river; thence, east, to the western boundary line of the state of Georgia; thence, along said line, to the southern boundary line of the state of Tennessee; thence, west along said boundary line, to the Tennessee river; thence, up the same, to the mouth of Bear creek; thence, by a direct line, to the northwest corner of Washington county; thence, due south, to the Gulf of Mexico; thence, eastwardly, including all islands within six leagues of the shore, to the Perdido river; and thence, up the same to the beginning.

SEC. 3. *And be it further enacted,* That it shall be the duty of the surveyor of the lands of the United States south of the state of Tennessee, and the surveyor of the public lands in the Alabama territory, to run, and cut out the line of demarcation, between the state of Mississippi and the state to be formed of the Alabama territory; and if it should appear to said surveyors, that so much of said line designated in the preceding section, running due south, from the northwest corner

of Washington county to the Gulf of Mexico, will encroach on the counties of Wayne, Greene, or Jackson, in said state of Mississippi, then the same shall be so altered as to run in a direct line from the northwest corner of Washington county to a point on the Gulf of Mexico ten miles east of the mouth of the river Pascagoula.

SEC. 4. *And be it further enacted*, That all white male citizens of the United States who shall have arrived at the age of twenty-one years, and have resided in said territory three months previous to the day of election, and all persons having, in other respects, the legal qualifications to vote for representatives in the general assembly of the said territory, be, and they are hereby, authorized to choose representatives to form a constitution, who shall be appointed among the several counties as follows:

From the county of Madison, eight representatives;
 From the county of Monroe, four representatives;
 From the county of Blount, three representatives;
 From the county of Limestone, three representatives;
 From the county of Shelby, three representatives;
 From the county of Montgomery, two representatives;
 From the county of Washington, two representatives;
 From the county of Tuscaloosa, two representatives;
 From the county of Lawrence, two representatives;
 From the county of Franklin, two representatives;
 From the county of Cotaco, two representatives;
 From the county of Clarke, two representatives;
 From the county of Baldwin, one representative;
 From the county of Cahawba, one representative;
 From the county of Conecuh, one representative;
 From the county of Dallas, one representative;
 From the county of Marengo, one representative;
 From the county of Marion, one representative;
 From the county of Mobile, one representative;
 From the county of Lauderdale, one representative;
 From the county of St. Clair, one representative;
 From the county of Autauga, one representative;

And the election for the representatives aforesaid, shall be holden on the first Monday and Tuesday in May next, throughout the several counties in the said territory, and shall be conducted in the same manner, under the same regulations as prescribed by the laws of the said territory, regulating elections therein for the members of the house of representatives.

SEC. 5. *And be it further enacted*, That the members of the convention, thus duly elected, be, and they are hereby, authorized to meet, at the town of Huntsville, on the first Monday in July next, which convention, when met, shall first determine, by a majority of the whole number elected, whether it be, or be not, expedient, at that time, to form a constitution and state government for the people within the said territory;

and, if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and state government; *Provided*, that the same, when formed, shall be republican, and not repugnant to the principles of the ordinance of the thirteenth of July, one thousand seven hundred and eighty seven, between the people and states of the territory northwest of the river Ohio, so far as the same has been extended to the said territory, by the articles of agreement between the United States and the state of Georgia, or of the constitution of the United States.

SEC. 6. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the said territory of Alabama, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States:

First. That the section numbered sixteen in every township, and when such section has been sold, granted, or disposed of, other lands equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such townships for the use of schools.

Second. That all salt springs within the said territory, and the lands reserved for the use of the same, together with such other lands as may, by the president of the United States, be deemed necessary and proper for working the said salt springs, not exceeding in the whole the quantity contained in thirty-six entire sections, shall be granted to the said state, for the use of the people of the said state, the same to be used, under such terms, conditions, and regulations, as the legislature of the said state shall direct; *Provided*, the said legislature shall never sell nor lease the same for a longer term than ten years at any one time.

Third. That five per cent of the net proceeds of the lands lying within the said territory, and which shall be sold by congress, from and after the first day of September, in the year one thousand eight hundred and nineteen, after deducting all expenses incident to the same, shall be reserved for making public roads, canals, and improving the navigation of rivers, of which three-fifths shall be applied to those objects within the said state, under the direction of the legislature thereof, and two-fifths to the making of a road or roads leading to the said state, under the direction of congress.

Fourth. That thirty-six sections, or one entire township, to be designated by the secretary of the treasury, under the direction of the president of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of the said state to be appropriated solely to the use of such seminary by said legislature. And the secretary of the treasury, under the direction as aforesaid, may reserve the seventy-two sections, or two townships, hereby set apart for the support of a seminary of learning, in small tracts; *Provided*, that no tract shall consist of less than two sections; *And provided, always*, that the said convention shall provide, by an ordinance irrevocable without the consent

of the United States, that the people inhabiting the said territory, do agree and declare that they forever disclaim all right and title to the waste or unappropriated lands lying within the said territory; and that the same shall be and remain at the sole and entire disposition of the United States (and, moreover, that each and every tract of land sold by the United States, after the first day of September, in the year one thousand eight hundred and nineteen, shall be and remain exempt from any tax laid by the order, or under the authority, of the state, whether for state, county, township, parish, or any other purpose whatever, for the term of five years, from and after the respective days of the sales thereof);* and that the lands belonging to the citizens of the United States, residing without the said state, shall never be taxed higher than the lands belonging to persons residing therein; and that no tax shall be imposed on lands, the property of the United States; and that all navigable waters within the said state shall forever remain public highways, free to the citizens of said state, and of the United States, without any tax, duty, impost, or toll therefor, imposed by the said state.

SEC. 7. *And be it further enacted*, That in lieu of a section of land, provided to be reserved for the seat of government of the said territory, by an act entitled "An act respecting the surveying and sale of the public lands in the Alabama territory," there be granted to the said state, for the seat of government thereof, a tract of land containing sixteen hundred and twenty acres, and consisting of sundry fractions and a quarter-section, in sections thirty-one and thirty-two, in township sixteen, and range ten, and in sections five and six, in township fifteen, and range ten, and in sections twenty-nine and thirty, in the same township and range, lying on both sides of the Alabama and Cahawba rivers, and including the mouth of the river Cahawba, and which heretofore has been reserved from public sale, by order of the president of the United States.

SEC. 8. *And be it further enacted*, That, until the next general census shall be taken, the said state shall be entitled to one representative in the house of representatives of the United States.

SEC. 9. *And be it further enacted*, That in case the said convention shall form a constitution and state government for the people of the Territory of Alabama, the said convention, as soon thereafter as may be, shall cause a true and attested copy of such constitution or frame of government as shall be formed or provided, to be transmitted to congress for its approbation.

Approved March 2, 1819.

(3 U. S. Stats. at Large, 489.)

*This part of the proviso was repealed by the act of congress of January 26, 1847.

RESOLUTION

Declaring the admission of the State of Alabama into the Union.

WHEREAS, In pursuance of an act of congress, passed on the second day of March, one thousand eight hundred and nineteen, entitled "An act to enable the people of the Alabama territory to form a constitution and state government, and for the admission of such state into the Union, on an equal footing with the original states," the people of the said territory did, on the second day of August, in the present year, by a convention called for that purpose, form for themselves a constitution and state government, which constitution and state government, so formed, is republican, and in conformity to the principles of the articles of compact between the original states and the people and states in the territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, so far as the same have been extended to the said territory by the articles of agreement between the United States and the state of Georgia:

Resolved by the senate and house of representatives of the United States of America in congress assembled, That the state of Alabama shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original states, in all respects whatever.

Approved December 14, 1819.

(3 U. S. Stats. at Large, 608.)

 RECONSTRUCTION ACTS.

 AN ACT

To provide for the more efficient government of the rebel states.

WHEREAS, No legal state governments or adequate protection for life or property now exists in the rebel states of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas and Arkansas; And whereas, it is necessary that peace and good order should be enforced in said states until loyal and republican state governments can be legally established; Therefore—

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That said rebel states shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed; and for that purpose

Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

SEC. 2. *And be it further enacted*, That it shall be the duty of the president to assign to the command of each of said districts an officer of the army not below the rank of brigadier-general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

SEC. 3. *And be it further enacted*, That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals, and to this end he may allow local civil tribunals to take jurisdiction of and try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, and all interference, under color of state authority, with the exercise of military authority under this act, shall be null and void.

SEC. 4. *And be it further enacted*, That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted; and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district and the laws and regulations for the government of the army shall not be affected by this act, except in so far as they conflict with its provisions; *Provided*, That no sentence of death, under the provisions of this act, shall be carried into effect without the approval of the president.

SEC. 5. *And be it further enacted*, That when the people of any one of said rebel states shall have formed a constitution of government in conformity with the constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said state twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said state for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion, or for felony at common law; and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates; and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates; and when such constitution shall have been submitted to congress for examination and approval, and congress shall have approved the same; and when said state, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the constitution of the United States proposed by the thirty-ninth congress, and known as article fourteen;

and when said article shall have become a part of the constitution of the United States, said state shall be declared entitled to representation in congress, and senators and representatives shall be admitted therefrom on their taking the oath prescribed by law; and then and thereafter the preceding sections of this act shall be inoperative in said state; *Provided*, that no person excluded from the privilege of holding office by said proposed amendment to the constitution of the United States shall be eligible to election as a member of the convention to frame a constitution for any of said rebel states, nor shall any such person vote for members of such convention.

SEC. 6. *And be it further enacted*, That until the people of said rebel states shall be by law admitted to representation in the congress of the United States, any civil government which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote, and none others, who are entitled to vote under the fifth section of this act; and no person shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third article of said constitutional amendment.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

LA FAYETTE S. FOSTER,

President of the Senate pro tempore.

VETO OF RECONSTRUCTION BILL.

WASHINGTON, March 2, 1867.

To the House of Representatives:

I have examined the bill "to provide for the more efficient government of the Rebel States" with the care and anxiety which its transcendent importance is calculated to awaken. I am unable to give it my assent for reasons so grave that I hope a statement of them may have some influence on the minds of the patriotic and enlightened men with whom the decision must ultimately rest.

The bill places all the people of the ten states therein named under the absolute domination of military rulers; and the preamble undertakes to give the reason upon which the measure is based and the ground upon which it is justified. It declares that there exists in those states no legal governments and no adequate protection for life

or property, and asserts the necessity of enforcing peace and good order within their limits. Is this true as matter of fact?

It is not denied that the states in question have each of them an actual government, with all the powers—executive, legislative, and judicial—which properly belongs to a free state. They are organized like other states of the Union, and, like them, they make, administer, and execute the laws which concern their domestic affairs. An existing *de facto* government, exercising such functions as these, is itself the law of the state upon all matter within its jurisdiction. To pronounce the supreme law-making power of an established state illegal is to say that law itself is unlawful.

The provisions which these governments have made for the preservation of order, the suppression of crime, and the redress of private injuries, are in substance and principle the same as those which prevail in the Northern States and in other civilized countries. They certainly have not succeeded in preventing the commission of all crime, nor has this been accomplished anywhere in the world. There, as well as elsewhere, offenders sometime escape for want of vigorous prosecution, and occasionally, perhaps, by the inefficiency of courts or the prejudice of jurors. It is undoubtedly true that these evils have been much increased and aggravated, North and South, by the demoralizing influence of civil war and by the rancorous passions which the contest has engendered. But that these people are maintaining local governments for themselves which habitually defeat the object of all government and render their own lives and property insecure is in itself utterly improbable, and the averment of the bill to that effect is not supported by any evidence which has come to my knowledge. All the information that I have on the subject convinces me that the masses of the Southern people and those who control their public acts, while they entertain diverse opinions on questions of federal policy, are completely united in the effort to reorganize their society on the basis of peace and to restore their mutual prosperity as rapidly and as completely as their circumstances will permit.

The bill, however, would seem to show on its face, that the establishment of peace and good order is not its real object. The fifth section declares that the preceding sections shall cease to operate in any state where certain events shall have happened. These events are, first, the selections of delegates to a state convention by an election at which negroes shall be allowed to vote; second, the formation of a state constitution by a convention so chosen; third, the insertion into the state constitution of a provision which will secure the right of voting at all elections to negroes and to such white men as may not be disfranchised for rebellion or felony; fourth, the submission of the constitution for ratification to negroes and white men not disfranchised, and its actual ratification by their vote; fifth, the submission of the state constitution to congress for examination and approval, and the actual approval of it by that body; sixth, the adoption of a

certain amendment to the federal constitution by a vote of the legislature elected under the new constitution; seventh, the adoption of said amendment by a sufficient number of other states to make it a part of the constitution of the United States. All these conditions must be fulfilled before the people of any of these states can be relieved from the bondage of military domination; but when they are fulfilled, then immediately the pains and penalties of the bill are to cease, no matter whether there be peace and order or not, and without any reference to the security of life and property. The excuse given for the bill in the preamble is admitted by the bill itself not to be real. The military rule which it establishes is plainly to be used, not for any purpose of order or for the prevention of crime, but solely as a means of coercing the people into the adoption of principles and measures to which it is known that they are opposed, and upon which they have an undeniable right to exercise their own judgment.

I submit to congress whether this measure is not in its whole character, scope, and object without precedent and without authority, in palpable conflict with the plainest provisions of the constitution, and utterly destructive to those principles of liberty and humanity for which our ancestors on both sides of the Atlantic have shed so much blood and expended so much treasure.

The ten states named in the bill are divided into five districts. For each district an officer of the army, not below the rank of a brigadier-general, is to be appointed to rule over the people; and he is to be supported with an efficient military force to enable him to perform his duties and enforce his authority. Those duties and that authority, as defined by the third section of the bill, are "to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished all disturbers of the public peace or criminals." The power thus given to the commanding officer over all the people of each district is that of an absolute monarch. His mere will is to take the place of all law. The law of the states is now the only rule applicable to the subjects placed under his control, and that is completely displaced by the clause which declares all interference of state authority to be null and void. He alone is permitted to determine what are rights of person or property, and he may protect them in such way as to his judgment may seem proper. It places at his free disposal all the lands and goods in his district, and he may distribute them without let or hindrance to whom he pleases. Being bound by no state law, and there being no other law to regulate the subject, he may make a criminal code of his own; and he can make it as bloody as any recorded in history, or he can reserve the privilege of acting upon the impulse of his private passions in each case that arises. He is bound by no rules of evidence; there is, indeed, no provision by which he is authorized or required to take any evidence at all. Everything is a crime which he chooses to call so, and all persons are condemned which he pronounces to be

guilty. He is not bound to keep any record or make any report of his proceedings. He may arrest his victims wherever he may find them without warrant, accusation, or proof of probable cause. If he gives them a trial before he inflicts the punishment, he gives it of his grace and mercy, not because he is commanded so to do.

To a casual reader of the bill it might seem that some kind of trial was secured by it to persons accused of crime, but such is not the case. The officer "may allow local civil tribunals to try offenders," but, of course, this does not require that he shall do so. If any state or federal court presumes to exercise its legal jurisdiction by the trial of a malefactor without his special permission, he can break it up and punish the judges and jurors as being themselves malefactors. He can save his friends from justice and despoil his enemies contrary to justice.

It is also provided that "he shall have power to organize military commissions or tribunals;" but this power he is not commanded to exercise. It is merely permissive, and is to be used only "when in his judgment it may be necessary for the trial of offenders." Even if the sentence of a commission were made a prerequisite to the punishment of a party, it would be scarcely the slightest check upon the officer, who has authority to organize it as he pleases, prescribe its mode of proceeding, appoint its members from his own subordinates, and revise all its decisions. Instead of mitigating the harshness of his single rule, such a tribunal would be used much more probably to divide the responsibility of making it more cruel and unjust.

Several provisions dictated by the humanity of congress have been inserted in the bill, apparently to restrain the power of the commanding officer; but it seems to me that they are of no avail for that purpose. The fourth section provides: First. That trials shall not be unnecessarily delayed; but I think that I have shown that the power is given to punish without trial; and, if so, this provision is practically inoperative. Second. Cruel or unusual punishment is not to be inflicted; but who is to decide what is cruel and what is unusual? The words have acquired a legal meaning by long use in the courts. Can it be expected that military officers will understand or follow a rule expressed in language so purely technical and not pertaining in the least degree to their profession? If not, then each officer may define cruelty according to his own temper, and if it is not usual, he will make it usual. Corporal punishment, imprisonment, the gag, the ball and chain, and all the almost insupportable forms of torture invented for military punishment lie within the range of choice. Third. The sentence of a commission is not to be executed without being approved by the commander, if it affects life or liberty, and a sentence of death must be approved by the president. This applies to cases in which there has been a trial and sentence. I take it to be clear under this bill that the military commander may condemn to death without even the form of a trial by a military commission, so

that the life of the condemned may depend upon the will of two men instead of one.

It is plain that the authority here given to the military officer amounts to absolute despotism. But to make it still more unendurable, the bill provides that it may be delegated to as many subordinates as he chooses to appoint, for it declares that "he shall punish or cause to be punished." Such a power has not been wielded by any monarch in England for more than five hundred years. In all that time no people who speak the English language have borne such servitude. It reduces the whole population of the ten states—all persons of every color, sex, and condition, and every stranger within their limits—to the most abject and degrading slavery. No master ever had a control so absolute over the slaves as this bill gives to the military officers over both white and colored persons.

It may be answered to this that the officers of the army are too magnanimous, just, and humane to oppress and trample upon a subjugated people. I do not doubt that army officers are as well entitled to this kind of confidence as any other class of men. But the history of the world has been written in vain if it does not teach us that unrestrained authority can never be safely trusted in human hands. It is almost sure to be more or less abused under any circumstances, and it has always resulted in gross tyranny where the rulers who exercise it are strangers to their subjects and come among them as the representatives of a distant power, and more especially when the power that sends them is unfriendly. Governments closely resembling that proposed have been tried in Hungary and Poland, and the sufferings endured by those people aroused the sympathies of the entire world. It was tried in Ireland, and, though tempered at first by principles of English law, it gave birth to cruelties so atrocious that they are never recounted without just indignation. The French convention armed its deputies with this power and sent them to the southern departments of the republic. The massacres, murders, and other atrocities which they committed show what the passions of the ablest men in the most civilized society will tempt them to do when wholly unrestrained by law.

The men of our race in every age have struggled to tie up the hands of their governments and keep them within the law, because their own experience of all mankind taught them that rulers could not be relied on to concede those rights which they were not legally bound to respect. The head of a great empire has sometimes governed it with a mild and paternal sway, but the kindness of an irresponsible deputy never yields what the law does not extort from him. Between such a master and the people subjected to his domination there can be nothing but enmity; he punishes them if they resist his authority, and if they submit to it he hates them for their servility.

I come now to a question which is, if possible, still more important. Have we the power to establish and carry into execution a measure

like this? I answer, certainly not, if we derive our authority from the constitution and if we are bound by the limitations which it imposes.

This proposition is perfectly clear, that no branch of the federal government—executive, legislative, or judicial—can have any just powers except those which it derives through and exercises under the organic law of the Union. Outside of the constitution we have no legal authority more than private citizens, and within it we have only so much as that instrument gives us. This broad principle limits all our functions and applies to all subjects. It protects not only citizens of states which are within the Union, but it shields every human being who comes or is brought under our jurisdiction. We have no right to do in one place more than another that which the constitution says that we shall not do at all. If, therefore, the Southern States were in truth out of the Union, we could not treat their people in a way which the fundamental law forbids.

Some persons assume that the success of our arms in crushing the opposition which was made in some of the states to the execution of the federal laws reduced those states and all their people—the innocent as well as the guilty—to the condition of vassalage and gave us a power over them which the constitution does not bestow or define or limit. No fallacy can be more transparent than this. Our victories subjected the insurgents to legal obedience, not to the yoke of an arbitrary despotism. When an absolute sovereign reduces his rebellious subjects, he may deal with them according to his pleasure, because he had that power before. But when a limited monarch puts down an insurrection, he must still govern according to law. If an insurrection should take place in one of our states against the authority of the state government and end in the overthrow of those who planned it, would that take away the right of all the people of the counties where it was favored by a part or a majority of the population? Could they for such a reason be wholly outlawed and deprived of their representation in the legislature? I have always contended that the government of the United States was sovereign within its constitutional sphere; that it executes its laws, like the states themselves, by applying its coercive powers to individuals directly, and that it could put down insurrection with the same effect as a state and no other. The opposite doctrine is the worst heresy of those who advocated secession, and cannot be agreed to without admitting that heresy to be right.

Invasion, insurrection, rebellion, and domestic violence were anticipated when the government was framed, and the means of repelling and suppressing them were wisely provided for in the constitution; but it was not thought necessary to declare that the states in which they might occur should be expelled from the Union. Rebellions which were invariably suppressed occurred prior to that out of which these questions grow; but the states continued to exist and the Union

remained unbroken. In Massachusetts, in Pennsylvania, in Rhode Island, and in New York, at different periods in our history, violent and armed opposition to the United States was carried on; but the relation of those states with the federal government were not supposed to be interrupted or changed thereby after the rebellious portions of their population were defeated and put down. It is true that in these earlier cases there was no formal expression of a determination to withdraw from the Union, but it is also true that in the Southern States the ordinances of secession were treated by all the friends of the Union as mere nullities, and are now acknowledged to be so by the states themselves. If we admit that they had any force or validity, or that they did in fact take the states in which they were passed out of the Union, we sweep from under our feet all the ground upon which we stand in justifying the use of federal force to maintain the integrity of the government.

This is a bill passed by congress in time of peace. There is not in any one of the states brought under its operation either war or insurrection. The laws of the states and of the federal government are all in undisturbed and harmonious operation. The courts, state and federal, are open and in the full exercise of their authority. Over every state comprised in these five military districts, life, liberty, and property are secured by state laws and federal laws, and the national constitution is everywhere in force and everywhere obeyed. What, then, is the ground on which this bill proceeds? The title of the bill announces that it is intended "for the more efficient government" of these ten states. It is recited by way of preamble that no legal state governments "nor adequate protection for life or property" exists in those states, and that peace and good order should be thus enforced. The first thing which arrests attention upon these recitals, which prepare the way for martial law, is this, that the only foundation upon which martial law can exist under our form of government is not stated or so much as pretended. Actual war, foreign invasion, domestic insurrection—none of these appear; and none of these, in fact, exist. It is not even recited that any sort of war or insurrection is threatened. Let us pause here to consider, upon this question of constitutional law and the power of congress, a recent decision of the supreme court of the United States, in *ex parte* Milligan.

I will first quote from the opinion of the majority of the court:

"Martial law cannot arise from a threatened invasion. The necessity must be actual and present, the invasion real, such as effectually closes the courts and deposes the civil administration."

We see that martial law comes in only when actual war closes the courts and deposes the civil authority; but this bill, in time of peace, makes martial law operate as though we were in actual war, and

becomes the cause instead of the *consequence* of the abrogation of civil authority. One more quotation:

“It follows from what has been said on this subject that there are occasions when martial law can be properly applied. If in foreign invasion or civil war, the courts are actually closed, and it is impossible to administer criminal justice according to law, *then*, on the theater of active military operations, where war really prevails, there is a necessity to furnish a substitute for the civil authority thus overthrown, to preserve the safety of the army and society; and as no power is left but the military, it is allowed to govern by martial rule until the laws can have their free course.”

I now quote from the opinion of the minority of the court, delivered by Chief Justice Chase:

“We by no means assert that congress can establish and apply the laws of war where no war has been declared or exists. Where peace exists, the laws of peace must prevail.”

This is sufficiently explicit. Peace exists in all the territory to which this bill applies. It asserts a power in congress, in time of peace, to set aside the laws of peace and to substitute the laws of war. The minority concurring with the majority, declares that congress does not possess that power. Again, and, if possible, more emphatically, the Chief Justice, with remarkable clearness and condensation, sums up the whole matter as follows:

“There are under the constitution three kinds of jurisdiction—one to be exercised both in peace and war; another to be exercised in time of foreign war without the boundaries of the United States, or in time of rebellion and civil war within states or districts occupied by rebels treated as belligerents; and a third to be exercised in time of invasion or insurrection within the limits of the United States, or during rebellion within the limits of the states maintaining adhesion to the national government, when the public danger requires its exercise. The first of the three may be called jurisdiction under military law, and is found in acts of congress prescribing rules and articles of war or otherwise providing for the government of the national forces; the second may be distinguished as military government, superseding as far as may be deemed expedient the local law, and exercised by the military commander under the direction of the president, with the express or implied sanction of congress; while the third may be denominated martial law proper, and is called into action by congress, or temporarily, when the action of congress cannot be invited, and

in the case of justifying or excusing peril, by the president, in times of insurrection or invasion or of civil or foreign war, within districts or localities where ordinary law no longer adequately secures public safety and private rights."

It will be observed that of the three kinds of military jurisdiction which can be exercised or created under our constitution, there is but one that can prevail in times of peace, and that is the code of laws enacted by congress for the government of the national forces. That body of military law has no application to the citizen, nor even to the citizen soldier enrolled in the militia in time of peace. But this bill is not a part of that sort of military law, for that applies only to the soldier and not to the citizen, whilst, contrariwise, the military law provided by this bill applies only to the citizen and not to the soldier.

I need not say to the representatives of the American people that their constitution forbids the exercise of judicial power in any way but one—that is, by the ordained and established courts. It is equally well known that in all criminal cases a trial by jury is made indispensable by the express words of that instrument. I will not enlarge on the inestimable value of the right thus secured to every freeman, or speak of the danger to public liberty in all parts of the country which must ensue from a denial of it anywhere or upon any pretense. A very recent decision of the supreme court has traced the history, vindicated the dignity, and made known the value of this great privilege so clearly that nothing more is needed. To what extent a violation of it might be excused in time of war or public danger may admit of discussion, but we are providing now for a time of profound peace, when there is not an armed soldier within our borders except those who are in the service of the government. It is in such a condition of things that an act of congress is proposed which, if carried out, would deny a trial by the lawful courts and juries to 9,000,000 American citizens and to their posterity for an indefinite period. It seems to be scarcely possible that any one should seriously believe this consistent with a constitution which declares in simple, plain, and unambiguous language that all persons shall have that right and that no person shall ever in any case be deprived of it. The constitution also forbids the arrest of the citizen without judicial warrant, founded on probable cause. This bill authorizes an arrest without warrant, at the pleasure of a military commander. The constitution declares that "no person shall be held to answer for a capital or otherwise infamous crime unless on presentment by a grand jury." This bill holds every person not a soldier answerable for all crimes and all charges without any presentment. The constitution declares that "no person shall be deprived of life, liberty, or property without due process of law." This bill sets aside all process of law, and makes the citizen answerable in his

person and property to the will of one man, and as to his life to the will of two. Finally, the constitution declares that "the privilege of the writ of *habeas corpus* shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it;" whereas this bill declares martial law (which of itself suspends this great writ) in time of peace and authorizes the military to make the arrest, and gives to the prisoner only one privilege, and that is a trial "without unnecessary delay." He has no hope of release from custody, except the hope, such as it is, of release by acquittal before a military commission.

The United States are bound to guarantee to each state a republican form of government. Can it be pretended that this obligation is not palpably broken if we carry out a measure like this, which wipes away every vestige of republican government in ten states and puts the life, property, liberty, and honor of all the people in each of them under the domination of a single person clothed with unlimited authority?

The parliament of England, exercising the omnipotent power which it claimed, was accustomed to pass bills of attainder; that is to say, it would convict men of treason and other crimes by legislative enactment. The person accused had a hearing, sometimes a patient and fair one, but generally party prejudice prevailed instead of justice. It often became necessary for parliament to acknowledge its error and reverse its own action. The fathers of our country determined that no such things should occur here. They withheld the power from congress, and thus forbade its exercise by that body, and they provided in the constitution that no state should pass any bill of attainder. It is therefore impossible for any person in this country to be constitutionally convicted or punished for any crime by a legislative proceeding of any sort. Nevertheless, here is a bill of attainder against 9,000,000 people at once. It is based upon an accusation so vague as to be scarcely intelligible, and found to be true upon no credible evidence. Not one of the 9,000,000 was heard in his own defense. The representatives of the doomed parties were excluded from all participation in the trial. The conviction is to be followed by the most ignominious punishment ever inflicted on large masses of men. It disfranchises them by hundreds of thousands and degrades them all, even those who are admitted to be guiltless, from the rank of freemen to the condition of slaves.

The purpose and object of the bill—the general intent which pervades it from beginning to end—is to change the entire structure and character of the state governments and to compel them by force to the adoption of organic laws and regulations which they are unwilling to accept if left to themselves. The negroes have not asked for the privilege of voting; the vast majority of them have no idea of what it means. This bill not only thrusts it into their hands, but compels them, as well as the whites, to use it in a particular way. If

they do not form a constitution with prescribed articles in it and afterwards elect a legislature which will act upon certain measures in a prescribed way, neither blacks nor whites can be relieved from the slavery which the bill imposes upon them. Without pausing here to consider the policy or impolicy of Africanizing the southern part of our territory, I would simply ask the attention of congress to that manifest, well-known, and universally acknowledged rule of constitutional law which declares that the federal government has no jurisdiction, authority, or power to regulate such subjects for any state. To force the right of suffrage out of the hands of the white people and into the hands of the negroes is an arbitrary violation of this principle.

This bill imposes martial law at once, and its operations will begin as soon as the general and his troops can be put in place. The dread alternative between its harsh rule and compliance with the terms of this measure is not suspended, nor are the people afforded any time for free deliberation. The bill says to them, take martial law first, *then* deliberate. And when they have done all that this measure requires them to do, other conditions and contingencies over which they have no control yet remain to be fulfilled before they can be relieved from martial law. Another congress must first approve the constitution made in conformity with the will of this congress, and must declare these states entitled to representation in both houses. The whole question thus remains open and unsettled and must again occupy the attention of congress; and in the meantime the agitation which now prevails will continue to disturb all portions of the people.

The bill also denies the legality of the governments of ten states which participated in the ratification of the amendment to the federal constitution abolishing slavery forever within the jurisdiction of the United States, and practically excludes them from the Union. If this assumption of the bill be correct, their concurrence cannot be considered as having been legally given, and the important fact is made to appear that the consent of three-fourths of the states—the requisite number—has not been constitutionally obtained to the ratification of that amendment, thus leaving the question of slavery where it stood before the amendment was officially declared to have become a part of the constitution.

That the measure proposed by this bill does violate the constitution in the particulars mentioned, and in many other ways which I forbear to enumerate, is too clear to admit of the least doubt. It only remains to consider whether the injunctions of that instrument ought to be obeyed or not. I think they ought to be obeyed, for reasons which I will proceed to give as briefly as possible.

In the first place, it is the only system of free government which we can hope to have as a nation. When it ceases to be the rule of our conduct we may perhaps take our choice between complete anarchy,

a consolidated despotism, and a total dissolution of the Union; but national liberty regulated by law will have passed beyond our reach.

It is the best frame of government the world ever saw. No other is or can be so well adapted to the genius, habits, or wants of the American people. Combining the strength of a great empire, with unspeakable blessings of local self-government, having a central power to defend the general interests, and recognizing the authority of the states as the guardians of industrial rights, it is "the sheet anchor of our safety abroad and our peace at home." It was ordained "to form a more perfect union, establish justice, insure domestic tranquillity, promote the general welfare, provide for the common defense, and secure the blessings of liberty to ourselves and to our posterity." These great ends have been attained heretofore, and will be again by faithful obedience to it; but they are certain to be lost if we treat with disregard its sacred obligations.

It was to punish the gross crime of defying the constitution and to vindicate its supreme authority that we carried on a bloody war of four years' duration. Shall we now acknowledge that we sacrificed a million of lives and expended billions of treasure to enforce a constitution which is not worthy of respect and preservation?

Those who advocated the right of secession alleged in their own justification that we had no regard for law and that their rights of property, life, and liberty would not be safe under the constitution as administered by us. If we now verify their assertion, we prove that they were in truth and in fact fighting for their liberty, and instead of branding their leaders with the dishonoring name of traitors against a righteous and legal government, we elevate them in history to the rank of self-sacrificing patriots, consecrate them to the admiration of the world, and place them beside Washington, Hampden and Sidney. No; let us leave them to the infamy they deserve, punish them as they should be punished, according to law, and take upon ourselves no share of the odium which they should bear alone.

It is a part of our public history which can never be forgotten that both houses of congress, in July, 1861, declared in the form of solemn resolution that the war was and should be carried on for no purpose of subjugation, but solely to enforce the constitution and laws, and that when this was yielded by the parties in rebellion, the contest should cease, with the constitutional rights of the states and of individuals unimpaired. This resolution was adopted and sent forth to the world unanimously by the senate, and with only two dissenting voices in the house. It was accepted by the friends of the Union in the South as well as in the North as expressing honestly and truly the object of the war. On the faith of it many thousands of persons in both sections gave their lives and their fortunes to the cause. To repudiate it now by refusing to the states and to the individuals within them the rights which the constitution and laws of the Union

would secure to them is a breach of our plighted honor for which I can imagine no excuse and to which I cannot voluntarily become a party.

The evils which spring from the unsettled state of our government will be acknowledged by all. Commercial intercourse is impeded, capital is in constant peril, public securities fluctuate in value, peace itself is not secure, and the sense of moral and political duty is impaired. To avert these calamities from our country it is imperatively required that we should immediately decide upon some course of administration which we can steadfastly adhere to. I am thoroughly convinced that any settlement or compromise or plan of action which is inconsistent with the principles of the constitution will not only be unavailing, but mischievous; that it will but multiply the present evils, instead of removing them. The constitution in its whole integrity and vigor, throughout the length and breadth of the land, is the best of all compromises. Besides, our duty does not, in my judgment, leave us a choice between that and any other! I believe that it contains the remedy that is so much needed, and that if the coördinate branches of the government would unite upon its provisions they would be found broad enough and strong enough to sustain in times of peace the nation which they bore safely through the ordeal of a protracted civil war. Among the most sacred guaranties of that instrument are those which declare that "each state shall have at least one representative," and that "no state, without its consent, shall be deprived of its equal suffrage in the senate." Each house is made the "judge of the elections, returns, and qualifications of its own members," and may, "with the concurrence of two-thirds, expel a member." Thus, as heretofore urged, "in the admission of senators and representatives from any and all of the states there can be no just ground of apprehension that persons who are disloyal will be clothed with the powers of legislation, for this could not happen when the constitution and the laws are enforced by a vigilant and faithful congress." "When a senator or representative presents his certificate of election, he may at once be admitted or rejected; or, should there be any question as to his eligibility, his credentials may be referred for investigation to the appropriate committee. If admitted to a seat, it must be upon evidence satisfactory to the house of which he thus becomes a member that he possesses the requisite constitutional and legal qualifications. If refused admission as a member for want of due allegiance to the government, and returned to his constituents, they are admonished that none but persons loyal to the United States will be allowed a voice in the legislative councils of the nation, and the political power and moral influence of congress are thus effectively exerted in the interests of loyalty to the government and fidelity to the Union." And is it not far better that the work of restoration should be accomplished by simple compliance with the plain requirements of the constitution than by a recourse to

measures which in effect destroy the states and threaten the subversion of the general government? All that is necessary to settle this simple but important question without further agitation or delay is a willingness on the part of all to sustain the constitution and carry its provisions into practical operation. If tomorrow either branch of congress would declare that upon the presentation of their credentials, members constitutionally elected and loyal to the general government would be admitted to seats in the congress, while all others would be excluded and their places remain vacant until the selection by the people of loyal and qualified persons, and if at the same time assurance were given that this policy would be continued until all the states were represented in congress, it would send a thrill of joy throughout the entire land, as indicating the inauguration of a system which must speedily bring tranquillity to the public mind.

While we are legislating upon subjects which are of great importance to the whole people, and which must affect all parts of the country, not only during the life of the present generation, but for ages to come, we should remember that all men are entitled at least to a hearing in the councils which decide upon the destinies of themselves and their children. At present, ten states are denied representation, and when the fortieth congress assembles on the fourth day of the present month sixteen states will be without a voice in the house of representatives. This grave fact, with the important questions before us, should induce us to pause in a course of legislation which, looking solely to the attainment of political ends, fails to consider the rights it transgresses, the law which it violates, or the institutions which it imperils.

ANDREW JOHNSON.

IN THE HOUSE OF REPRESENTATIVES,
March 2, 1867. }

The president of the United States having returned to the house of representatives, in which it originated, the bill entitled "An act to provide for the more efficient government of the rebel states," with his objections thereto, the house of representatives proceeded, in pursuance of the constitution, to reconsider the same, and

Resolved, That the said bill do pass, two-thirds of the house of representatives agreeing to pass the same.

Attest:

EDWARD McPHERSON,
Clerk H. R. U. S.

IN SENATE OF THE UNITED STATES,
March 2, 1867. }

The senate having proceeded, in pursuance of the constitution, to reconsider the bill entitled "An act to provide for the more efficient government of the rebel states," returned to the house of representa-

tives by the president of the United States with his objections, and sent by the house of representatives to the senate with the message of the president returning the bill,

Resolved, That the bill do pass, two-thirds of the senate agreeing to pass the same.

Attest:

March 2, 1867.

J. W. FORNEY,

Secretary of the Senate.

(14 U. S. Stats. at Large, 428.)

AN ACT

Supplementary to an act entitled "An act to provide for the more efficient government of the rebel states," passed March second, eighteen hundred and sixty-seven, and to facilitate restoration.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That before the first day of September, eighteen hundred and sixty-seven, the commanding general in each district defined by an act entitled "An act to provide for the more efficient government of the rebel states," passed March second, eighteen hundred and sixty-seven, shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upwards, resident in each county or parish in the state or states included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation: "I, _____, do solemnly swear (or affirm), in the presence of Almighty God, that I am a citizen of the state of _____; that I have resided in said state for _____ months next preceding this day, and now reside in the county of _____, or the parish of _____, in said state (as the case may be); that I am twenty-one years old; that I have not been disfranchised for participating in any rebellion or civil war against the United States, nor for felony committed against the laws of any state or of the United States; that I have never been a member of any state legislature, nor held any executive or judicial office in any state and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of congress of the United States, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do—So help me God;" which oath or affirmation may be administered by any registering officer.

SEC. 2. *And be it further enacted*, That after the completion of the

registration hereby provided for in any state, at such time and places therein as the commanding general shall appoint and direct, of which at least thirty days' public notice shall be given, an election shall be held of delegates to a convention for the purpose of establishing a constitution and civil government for such state loyal to the Union, said convention in each state, except Virginia, to consist of the same number of members as the most numerous branch of the state legislature of such state in the year eighteen hundred and sixty, to be apportioned among the several districts, counties, or parishes of such state by the commanding general, giving to each representation in the ratio of voters registered as aforesaid as nearly as may be. The convention in Virginia shall consist of the same number of members as represented the territory now constituting Virginia in the most numerous branch of the legislature of said state in the year eighteen hundred and sixty, to be apportioned as aforesaid.

SEC. 3. *And be it further enacted*, That at said election the registered voters of each state shall vote for or against a convention to form a constitution therefor under this act. Those voting in favor of such a convention shall have written or printed on the ballots by which they vote for delegates, as aforesaid, the words "For a convention," and those voting against such a convention shall have written or printed on such ballots the words "Against a convention." The persons appointed to superintend said election, and to make return of the votes given thereat, as herein provided, shall count and make return of the votes given for and against a convention; and the commanding general to whom the same shall have been returned shall ascertain and declare the total vote in each state for and against a convention. If a majority of the votes given on that question shall be for a convention, then such convention shall be held as hereinafter provided; but if a majority of said votes shall be against a convention, then no such convention shall be held under this act; *Provided*, that such convention shall not be held unless a majority of all such registered voters shall have voted on the questions of holding such convention.

SEC. 4. *And be it further enacted*, That the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration, superintend the election, and make return to him of the votes, list of voters, and of the persons elected as delegates by a plurality of the votes cast at said election; and upon receiving said returns he shall open the same, ascertain the persons elected as delegates, according to the returns of the officers who conducted said election, and make proclamation thereof; and if a majority of the votes given on that question shall be for a convention, the commanding general, within sixty days from the date of election, shall notify the delegates to assemble in convention, at a time and place to be mentioned in the notification, and said convention, when organized, shall proceed to frame a constitution and civil government according to the provisions

of this act, and the act to which it is supplementary; and when the same shall have been so framed, said constitution shall be submitted by the convention for ratification to the persons registered under the provisions of this act at an election to be conducted by the officers or persons appointed, or to be appointed by the commanding general, as hereinbefore provided, and to be held after the expiration of thirty days from the date of notice thereof, to be given by said convention; and the returns thereof shall be made to the commanding general of the district.

SEC. 5. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, at least one-half of all the registered voters voting upon the question of such ratification, the president of the convention shall transmit a copy of the same, duly certified, to the president of the United States, who shall forthwith transmit the same to congress, if then in session, and if not in session, then immediately upon its next assembling; and if it shall moreover appear to congress that the election was one at which all the registered and qualified electors in the state had an opportunity to vote freely, and without restraint, fear, or the influence of fraud, and if the congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the state, and if the said constitution shall be declared by congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by congress, the state shall be declared entitled to representation, and senators and representatives shall be admitted therefrom as therein provided.

SEC. 6. *And be it further enacted*, That all elections in the states mentioned in the said "Act to provide for the more efficient government of the rebel states," shall, during the operation of said act, be by ballot; and all officers making the said registration of voters, and conducting said elections, shall, before entering upon the discharge of their duties, take and subscribe the oath prescribed by the act approved July second, eighteen hundred and sixty-two, entitled "An act to prescribe an oath of office;" *Provided*, that if any person shall knowingly and falsely take and subscribe any oath in this act prescribed, such person so offending, and being thereof duly convicted, shall be subject to the pains, penalties, and disabilities, which by law are provided for the punishment of the crime of willful and corrupt perjury.

SEC. 7. *And be it further enacted*, That all expenses incurred by the several commanding generals, or by virtue of any orders issued, or appointments made by them, under or by virtue of this act, shall be paid out of any moneys in the treasury not otherwise appropriated.

SEC. 8. *And be it further enacted*, That the convention for each State shall prescribe the fees, salary, and compensation to be paid to all delegates and other officers and agents herein authorized or necessary to carry into effect the purposes of this act, not herein otherwise pro-

vided for, and shall provide for the levy and collection of such taxes on the property in such state as may be necessary to pay the same.

SEC. 9. *And be it further enacted*, That the word "article," in the sixth section of the act to which this is supplementary, shall be construed to mean "section."

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U. S. }
March 23, 1867. }

The president of the United States having returned to the house of representatives, in which it originated, the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel states,' passed March second, eighteen hundred and sixty-seven, and to facilitate restoration," with his objections thereto, the house of representatives proceeded, in pursuance of the constitution, to reconsider the same; and—

Resolved, That the said bill do pass, two-thirds of the house of representatives agreeing to pass the same.

Attest:

EDWD. MCPHERSON,
Clerk H. R. U. S.

IN SENATE OF THE UNITED STATES, }
March 23, 1867. }

The senate having proceeded, in pursuance of the constitution, to reconsider the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel states,' passed March second, eighteen hundred and sixty-seven, and to facilitate restoration," returned to the house of representatives by the president of the United States, with his objections, and sent by the house of representatives to the senate, with the message of the president returning the bill—

Resolved, That the bill do pass, two-thirds of the senate agreeing to pass the same.

Attest:

March 23, 1867.

J. W. FORNEY,
Secretary.

ACTS OF CONGRESS.

AN ACT

To authorize the legislature of the state of Alabama to sell the lands heretofore appropriated for the use of schools in that state.

SECTION 1. *Be it enacted by the senate and house of representatives of the United States of America in congress assembled,* That the legislature of the state of Alabama shall be and is hereby authorized to sell and convey, in fee simple, all or any part of the lands heretofore reserved and appropriated by congress for the use of schools within said state, and to invest the money arising from the sale thereof in some productive fund, the proceeds of which shall be forever applied, under the direction of said legislature, for the use and support of schools within the several townships and districts of country for which they were originally reserved and set apart, and for no other use or purpose whatsoever; *Provided,* said land, or any part thereof, shall in no case be sold without the consent of the inhabitants of such township or district, to be obtained in such manner as the legislature of said state shall by law direct; *And provided also,* that in the apportionment of the proceeds of said fund each township and district aforesaid shall be entitled to such part thereof, and no more, as shall have accrued from the sum or sums of money arising from the sale of the school lands belonging to such township or district.

SEC. 2. *And be it further enacted,* That if the proceeds accruing to any township or district from said fund shall be insufficient for the support of schools therein, it shall be lawful for said legislature to invest the same as is hereinbefore directed, until the whole proceeds of the fund belonging to such township or district shall be adequate to the permanent maintenance and support of schools within the same.

Approved March 2, 1827.

(4 U. S. Stats. at Large, 237.)

AN ACT

To carry into effect, in the states of Alabama and Mississippi, the existing compacts with those states in regard to the five per cent. fund and the school reservations.

SECTION 1. *Be it enacted by the senate and house of representatives of the United States of America in congress assembled,* That a sum equivalent to five per cent. of the net proceeds of the lands within the

state of Mississippi, ceded by the Chickasaws by the treaty of the twentieth of October, eighteen hundred and thirty-two, which have been or may hereafter be sold to congress, shall be and is hereby reserved out of any money in the treasury not otherwise appropriated, to be applied in the same manner, and for the same uses and purposes as is designated by the fifth section of the act of congress of the first of March, eighteen hundred and seventeen.

SEC. 2. *And be it further enacted*, That there shall be reserved from sale in the state of Mississippi a quantity of land equal to one thirty-sixth part of the lands ceded by said Chickasaws as aforesaid, within said state of Mississippi, which lands shall be selected under the direction of the secretary of the treasury, in sections, or half-sections, or quarter-sections, out of any public lands remaining unsold, that shall have been offered at public sale within either of the land districts in said state of Mississippi contiguous to said lands within said state, so ceded by the Chickasaws as aforesaid, which lands, when so selected as aforesaid, the same shall vest in the state of Mississippi, for the use of schools within said territory in said state, so ceded as aforesaid by the Chickasaws; and such lands, thus selected, shall be holden by the same tenure, and upon the same terms and conditions, in all respects, as the said state now holds the lands heretofore reserved for the use of schools in said state.

SEC. 3. *And be it further enacted*, That a sum equivalent to five per cent. of the net proceeds of the lands within the state of Alabama, ceded by the Chickasaws by the treaty aforesaid, which have been or may hereafter be sold by congress, shall be, and is hereby reserved out of any moneys in the treasury not otherwise appropriated, to be applied in the same manner, and for the same uses and purposes as is designated by the sixth section of the act of congress of the second of March, eighteen hundred and nineteen.

SEC. 4. *And be it further enacted*, That there shall be reserved from sale in the state of Alabama a quantity of land equal to one thirty-sixth part of the lands ceded by the Chickasaws as aforesaid, within said state of Alabama, which land shall be selected under the direction of the secretary of the treasury, in sections, or half-sections, or quarter-sections, out of any public lands remaining unsold, that shall have been offered at public sale within any land district in said state of Alabama contiguous to said lands within said state so ceded by the Chickasaws as aforesaid, which lands, when so selected as aforesaid, the same shall vest in the state of Alabama for the use of schools within said territory in said state, so ceded as aforesaid by the Chickasaws; and said lands thus selected shall be holden by the same tenure, and upon the same terms and conditions, in all respects, as the said state now holds the lands heretofore reserved for the use of schools in said state.

Approved July 4, 1836.

(5 U. S. Stats. at Large, 727.)

AN ACT

Authorizing the settlement and payment of certain claims of the state of Alabama.

SECTION 1. *Be it enacted by the senate and house of representatives of the United States of America in congress assembled,* That the secretary of war be and hereby is directed to audit and adjust the claims of the state of Alabama, under such laws and regulations as have heretofore governed the department in auditing and allowing the claims of the states on the United States, for moneys advanced and paid by said state for subsistence, supplies, and services of local troops called into service by and under the authorities of said state, but not mustered into the service of the United States, and for provisions and forage furnished the friendly Indians during the Creek and Seminole hostilities, in the years eighteen hundred and thirty-six and eighteen hundred and thirty-seven, in all cases in which the payment was for subsistence, supplies, service, provisions, and forage, which would have been paid for under existing laws and regulations, if such troops had been mustered into the service of the United States, and the provision and forage had been furnished by an agent of the United States; and that the sum so found due to said state be paid out of any money in the treasury not otherwise appropriated; *Provided,* that in auditing and adjusting said claims, duly authenticated copies of papers which have been lost or destroyed, upon due proof of such loss or destruction, shall be received as evidence.

SEC. 2. *And be it further enacted,* That the secretary of war be, and he hereby is required to report to the house of representatives a schedule of such claims as may be presented for adjustment under this act, and not allowed, with the reasons for such disallowance, at the next session of congress.

Approved August 16, 1842.

(5 U. S. Stats. at Large, 506.)

AN ACT

To authorize the state of Alabama to apply certain lands heretofore granted to that state for internal improvements, for the use of schools, in the valueless sixteenth sections in said state.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That the lands granted to the state of Alabama for purposes of internal improvement, by the eighth section of the act entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," approved September fourth, eighteen hundred and forty-one, may be, and the same are hereby placed at the disposal of the legisla-

ture of said state, at such price as said legislature may direct, to be applied for the use of schools in such townships of said state as in which the sixteenth or school sections are comparatively valueless, and the legislature may locate said lands in any legal subdivisions, not less than forty acres, within the limits of said state.

Approved August 11, 1848.

(9 U. S. Stats. at Large, 281.)

AN ACT

Declaring the assent of congress to certain states to impose a tax upon all lands hereafter sold by the United States therein, from and after the date of such sale.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That the assent of congress is hereby given to the several states admitted into the Union prior to the twenty-fourth day of April, in the year of our Lord one thousand eight hundred and twenty, to impose a tax or taxes on lands hereafter to be sold by the United States, in said state, from and after the day of such sale; *Provided,* that the assent hereby given shall in nowise impair that provision of the compact with the said states which declares that all lands belonging to citizens of the United States residing without the said states, shall never be taxed higher than lands belonging to persons residing therein.

Approved January 26, 1847.

(9 U. S. Stats. at Large, 118.)

CONSTITUTION OF THE STATE OF ALABAMA—1819.*

WE, the people of the Alabama Territory, having the right of admission into the general government as a member of the Union, consistent with the Constitution and laws of the United States, by our representatives, assembled in convention at the town of Huntsville, on Monday, the fifth day of July, one thousand eight hundred and nineteen, in pursuance of an act of congress, entitled "An act to enable the people of the Alabama Territory to form a constitution and state government, and for the admission of such state into the Union, on an equal footing with the original states"; in order to establish justice, ensure tranquillity, provide for the common defense, promote the general welfare, and secure to ourselves and our posterity the rights of life, liberty, and property, do ordain and establish the following Constitution or form of government; and do mutually agree with each other to form ourselves into a free and independent state, by the name of "The State of Alabama." And we do hereby recognize, confirm, and establish the boundaries assigned to said State by the act of congress aforesaid—"to wit: Beginning at the point where the thirty-first degree of north latitude intersects the Perdido river, thence, east, to the western boundary line of the state of Georgia; thence, along said line, to the southern boundary line of the state of Tennessee; thence, west, along said boundary line, to the Tennessee river; thence, up the same to the mouth of Bear creek; thence, by a direct line, to the northwest corner of Washington county; thence, due south, to the Gulf of Mexico; thence, eastwardly, including all islands within six leagues of the shore, to the Perdido river; and thence, up the same to the beginning"—subject to such alteration as is provided in the third section of said act of congress, and subject to such enlargement as may be made by law, in consequence of any cession of territory by the United States, or either of them.

ARTICLE 1.

DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare:

§ 1. That all freemen, when they form a social compact, are equal in rights; and that no man or set of men are entitled to exclusive, sepa-

*The parts in brackets have been modified by the amendments.

rate public emoluments or privileges, but in consideration of public services.

§ 2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit: and, therefore, they have at all times an unalienable and indefeasible right to alter, reform, or abolish their form of government, in such manner as they may think expedient.

§ 3. No person within this State shall, upon any pretence, be deprived of the inestimable privilege of worshiping God in the manner most agreeable to his own conscience; nor be compelled to attend any place of worship; nor shall any one ever be obliged to pay any tithes, taxes, or other rate, for the building or repairing any place of worship, or for the maintenance of any minister or ministry.

§ 4. No human authority ought, in any case whatever, to control or interfere with the rights of conscience.

§ 5. No person shall be hurt, molested, or restrained, in his religious profession, sentiments, or persuasions, provided he does not disturb others in their religious worship.

§ 6. The civil rights, privileges, or capacities of any citizen, shall in no way be diminished or enlarged, on account of his religious principles.

§ 7. There shall be no establishment of religion by law; no preference shall ever be given by law to any religious sect, society, denomination, or mode of worship; and no religious tests shall ever be required as a qualification to any office or public trust under this State.

§ 8. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuses of that liberty.

§ 9. The people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures or searches; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

§ 10. In all criminal prosecutions, the accused has a right to be heard by himself and counsel; to demand the nature and cause of the accusation, and have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and, in all prosecutions, by indictment or information, a speedy public trial by an impartial jury of the county or district in which the offense shall have been committed; he shall not be compelled to give evidence against himself, nor shall he be deprived of his life, liberty, or property, but by due course of law.

§ 11. No person shall be accused, arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and no person shall be punished, but in virtue of a law, established and promulgated prior to the offense, and legally applied.

§ 12. No person shall, for any indictable offense, be proceeded

against criminally, by information; except in cases arising in the land and naval forces, or the militia when in actual service, or, by leave of the court, for oppression and misdemeanor in office.

§ 13. No person shall, for the same offense, be twice put in jeopardy of life or limb; nor shall any person's property be taken or applied to public use, unless just compensation is made therefor.

§ 14. All courts shall be open, and every person, for an injury done him, in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered, without sale, denial, or delay.

§ 15. No power of suspending laws shall be exercised, except by the general assembly, or its authority.

§ 16. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishment inflicted.

§ 17. All persons shall, before conviction, be bailable by sufficient securities, except for capital offenses, when the proof is evident, or the presumption great; and the privilege of the writ of "habeas corpus" shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

§ 18. The person of a debtor, where there is not strong presumption of fraud, shall not be detained in prison, after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

§ 19. No ex post facto law, nor law impairing the obligation of contracts, shall be made.

§ 20. No person shall be attainted of treason or felony by the general assembly. No attainder shall work corruption of blood, nor forfeiture of estate.

§ 21. The estates of suicides shall descend or vest as in cases of natural death; if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

§ 22. The citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

§ 23. Every citizen has a right to bear arms in defense of himself and the state.

§ 24. No standing army shall be kept up without the consent of the general assembly; and, in that case, no appropriation of money for its support shall be for a longer term than one year, and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

§ 25. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

§ 26. No title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this State;

nor shall any office be created, the appointment of which shall be for a longer term than during good behavior.

§ 27. Emigration from this state shall not be prohibited, nor shall any citizen be exiled.

§ 28. The right of trial by jury shall remain inviolate.

§ 29. No person shall be debarred from prosecuting or defending any civil cause, for or against him or herself, before any tribunal in this State, by him or herself, or counsel.

§ 30. This enumeration of certain rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachments on the rights herein retained, or any transgression of any of the high powers herein delegated, we declare, that every thing in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II.

DISTRIBUTION OF POWERS.

§ 1. The powers of the government of the state of Alabama shall be divided into three distinct departments; and each of them confided to a separate body of magistracy, to wit: Those which are legislative to one; those which are executive to another; and those which are judicial to another.

§ 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

§ 1. The legislative power of this state shall be vested in two distinct branches; the one to be styled the senate, the other the house of representatives, and both together "The General Assembly of the State of Alabama"; and the style of their laws shall be, "Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened."

§ 2. The members of the house of representatives shall be chosen by the qualified electors, and shall serve for the term of [one year] from the day of the commencement of the general election, and no longer.

§ 3. The representatives shall be chosen [every year] on the first Monday and the day following in August, until otherwise directed by law.

§ 4. No person shall be a representative, unless he be a white man, a citizen of the United States, and shall have been an inhabitant of this state two years next preceding his election, and the last year

thereof a resident of the county, city, or town, for which he shall be chosen, and shall have attained the age of twenty-one years.

§ 5. Every white male person of the age of twenty-one years, or upwards, who shall be a citizen of the United States, and shall have resided in this state one year next preceding an election, and the last three months within the county, city, or town, in which he offers to vote, shall be deemed a qualified elector; *Provided*, that no soldier, seaman, or marine, in the regular army or navy of the United States, shall be entitled to vote at any election in this state; *And provided also*, that no elector shall be entitled to vote except in the county, city, or town (entitled to separate representation) in which he may reside at the time of the election.

§ 6. Electors shall, in all cases except in those of treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

§ 7. In all elections by the people, the electors shall vote by ballot, until the general assembly shall otherwise direct.

§ 8. Elections for representatives for the several counties shall be held at the place of holding their respective courts, and at such other places as may be prescribed by law; *Provided*, that when it shall appear to the general assembly that any city or town shall have a number of white inhabitants equal to the ratio then fixed, such city or town shall have a separate representation, according to the number of white inhabitants therein; which shall be retained so long as such city or town shall contain a number of white inhabitants equal to the ratio which may from time to time be fixed by law; and thereafter, and during the existence of the right of separate representation, in such city or town, elections for the county in which such city or town (entitled to such separate representation) is situated, shall not be held in such city or town; but it is understood, and hereby declared, that no city or town shall be entitled to separate representation, unless the number of white inhabitants in the county in which such city or town is situated, residing out of the limits of said city or town, be equal to the existing ratio; or unless the residuum or fraction of such city or town shall, when added to the white inhabitants of the county residing out of the limits of said city or town, be equal to the ratio fixed by law for one representative; *And provided*, that if the residuum or fraction of any city or town, entitled to separate representation, shall, when added to the residuum of the county in which it may lie, be equal to the ratio fixed by law for one representative, then the aforesaid county, city, or town, having the largest residuum, shall be entitled to such representation; *And provided also*, that when there are two or more counties adjoining, which have residuums or fractions over and above the ratio then fixed by law, if said residuums or fractions, when added together, will amount to such ratio, in that case one representative shall be added to that county having the largest residuum.

§ 9. The general assembly shall, at their first meeting, and in the

years one thousand eight hundred and twenty, one thousand eight hundred and twenty-three, one thousand eight hundred and twenty-six, and every six years thereafter, cause an enumeration to be made of all the inhabitants of the state, and the whole number of the representatives shall, at the first session held after making every such enumeration, be fixed by the general assembly and apportioned among the several counties, cities, or towns, entitled to separate representation, according to their respective numbers of white inhabitants; and the said apportionment, when made, shall not be subject to alteration, until after the next census shall be taken. The house of representatives shall not consist of less than forty-four, nor more than sixty members, until the number of white inhabitants shall be one hundred thousand; and after that event, the whole number of representatives shall never be less than sixty, nor more than one hundred; *Provided, however,* that each county shall be entitled to at least one representative.

§ 10. The general assembly shall, at the first session after making every such enumeration, fix by law the whole number of senators, and shall divide the state into the same number of districts, as nearly equal, in the number of white inhabitants, as may be, each of which districts shall be entitled to one senator and no more; *Provided,* that the whole number of senators shall never be less than one-fourth, nor more than one-third of the whole number of representatives.

§ 11. When a senatorial district shall be composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a district.

§ 12. Senators shall be chosen by the qualified electors, for the term of three years, at the same time, in the same manner, and at the same places, where they may vote for members of the house of representatives; and no person shall be a senator, unless he be a white man, a citizen of the United States, and shall have been an inhabitant of this state two years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained to the age of twenty-seven years.

[§ 13. The senators chosen according to the apportionment under the census ordered to be taken in one thousand eight hundred and twenty-six, when convened, shall be divided by lot into three classes, as nearly equal as may be. The seats of the senators of the first class shall be vacated at the expiration of the first year, those of the second class at the expiration of the second year, and those of the third class at the expiration of the third year, so that one-third may be annually chosen thereafter, and a rotation thereby kept up perpetually. Such mode of classifying new additional senators shall be observed as will, as nearly as possible, preserve an equality of members in each class.]

§ 14. The house of representatives, when assembled, shall choose a speaker, and its other officers; and the senate shall [annually] choose a president, and its other officers; each house shall judge of the quali-

fications, elections, and returns, of its own members; but a contested election shall be determined in such manner as shall be directed by law.

§ 15. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

§ 16. Each house may determine the rules of its own proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member; but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free and independent state.

§ 17.. Each house, during the session, may punish, by imprisonment, any person, not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings; *Provided*, that such imprisonment shall not, at any one time, exceed forty-eight hours.

§ 18. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals. Any member of either house shall have liberty to dissent from, or protest against, any act or resolution which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journals.

§ 19. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; allowing one day for every twenty miles such member may reside from the place at which the general assembly is convened; nor shall any member be liable to answer for anything spoken in debate in either house, in any court or place elsewhere.

§ 20. When vacancies happen in either house, the governor, or the person exercising the powers of the governor, shall issue writs of election to fill such vacancies.

§ 21. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

§ 22. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

§ 23. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of a law, until on three several days it be read in each house, and free discussion be allowed thereon, unless, in case of urgency, four-fifths of the house in which the bill shall be depending may deem it expedient to dispense with this rule; and every bill, having passed both houses, shall be

signed by the speaker and the president of their respective houses; *Provided*, that all bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them as other bills.

§ 24. Each member of the general assembly shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

§ 25. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

§ 26. No person holding any lucrative office under the United States (the office of postmaster excepted), this State, or any other power, shall be eligible to the general assembly; *Provided*, that offices in the militia, to which there is attached no annual salary, or the office of justice of the peace, or that of the quorum, or county court, while it has no salary, shall not be deemed lucrative.

§ 27. No person who may hereafter be a collector or holder of public moneys, shall have a seat in either house of the general assembly, or be eligible to any office of trust or profit under this State, until he shall have accounted for, and paid into the treasury, all sums for which he may be accountable.

§ 28. The first election for senators and representatives shall be general throughout the State; and shall be held on the third Monday and Tuesday in September next.

[§ 29. The first session of the general assembly shall commence on the fourth Monday in October next, and be held at the town of Huntsville, and all subsequent sessions at the town of Cahawba, until the end of the first session of the general assembly, to be held in the year one thousand eight hundred and twenty-five; during that session the general assembly shall have power to designate by law (to which the executive concurrence shall not be required) the permanent seat of government, which shall not thereafter be changed; *Provided, however*, that unless such designation be then made by law, the government shall continue permanently at the town of Cahawba; *And provided also*, that the general assembly shall make no appropriations previous to the year one thousand eight hundred and twenty-five, for the building of any other state-house than that now provided for by law.]

ARTICLE IV.

EXECUTIVE DEPARTMENT.

§ 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the "Governor of the State of Alabama."

§ 2. The governor shall be elected by the qualified electors at the time and places when they shall respectively vote for representatives.

§ 3. The returns of every election for governor shall be sealed up, and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall, during the first week of the session, open and publish them in the presence of both houses of the general assembly. The person having the highest number of votes shall be governor, but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of both houses. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

§ 4. The governor shall hold his office for the term of two years from the time of his installation, and until his successor shall be duly qualified, but shall not be eligible for more than four years in any term of six years; he shall be at least thirty years of age, shall be a native citizen of the United States, and shall have resided in this State at least four years next preceding the day of his election.

§ 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected.

§ 6. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof, except when they shall be called into the service of the United States. And when acting in the service of the United States, the general assembly shall fix his rank.

§ 7. He may require information in writing from the officers of the executive department, on any subject relating to the duties of their respective offices.

§ 8. He may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy, or from contagious disorders; in case of disagreement between the two houses, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next [annual] meeting of the general assembly.

§ 9. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient.

§ 10. He shall take care that the laws be faithfully executed.

§ 11. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law. In cases of treason he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons; and he may, in the recess of the senate, respite the sentence until the end of the next session of the general assembly.

§ 12. There shall be a seal of this state, which shall be kept by the

governor, and used by him officially, and the present seal of the territory shall be the seal of the state, until otherwise directed by the general assembly.

§ 13. All commissions shall be in the name and by the authority of the state of Alabama, be sealed with the state seal, signed by the governor, and attested by the secretary of state.

§ 14. There shall be a secretary of state, appointed by joint vote of both houses of the general assembly, who shall continue in office during the term of two years. He shall keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly; and shall perform such other duties as may be required of him by law.

§ 15. Vacancies that may happen in offices, the appointment to which is vested in the general assembly, shall be filled by the governor, during the recess of the general assembly, by granting commissions which shall expire at the end of the next session.

§ 16. Every bill which shall have passed both houses of the general assembly shall be presented to the governor; if he approve he shall sign it, but if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journals, and proceed to reconsider it; if after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by a majority of the whole number elected to that house, it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays; and the names of the members voting for or against the bill shall be entered on the journals of each house respectively; if any bill shall not be returned by the governor within five days, Sundays excepted, after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall not be a law.

§ 17. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him, or being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the cases of a bill.

§ 18. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the state, the president of the senate shall exercise all the power and authority appertaining to the office of governor, until the time pointed out by this constitution for the election of governor shall arrive, unless the general assembly shall provide by law for the election of a

governor to fill the vacancy, or until the governor absent or impeached shall return or be acquitted.

§ 19. If, during the vacancy of the office of governor, the president of the senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the speaker of the house of representatives shall, in like manner, administer the government.

§ 20. The president of the senate and speaker of the house of representatives, during the time they respectively administer the government, shall receive the same compensation which the governor would have received, had he been employed in the duties of his office.

§ 21. The governor shall always reside, during the session of the general assembly, at the place where their session may be held, and at all other times wherever, in their opinion, public good may require.

§ 22. No person shall hold the office of governor, and any other office or commission, civil or military, either in this state, or under any state, or the United States, or any other power, at one and the same time.

§ 23. A state treasurer and a comptroller of public accounts shall be annually elected, by a joint vote of both houses of the general assembly.

§ 24. A sheriff shall be elected in each county by the qualified electors thereof, who shall hold his office for the term of three years, unless sooner removed, and who shall not be eligible to serve either as principal or deputy for the three succeeding years. Should a vacancy occur subsequent to an election, it shall be filled by the governor, as in other cases, and the person so appointed shall continue in office until the next general election, when such vacancy shall be filled by the qualified electors, and the sheriff then elected shall continue in office for three years.

MILITIA.

§ 1. The general assembly shall provide by law for organizing and disciplining the militia of this state, in such manner as they shall deem expedient, not incompatible with the constitution and laws of the United States in relation thereto.

§ 2. Any person, who conscientiously scruples to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service.

§ 3. The governor shall have power to call forth the militia to execute the laws of the state, to suppress insurrections, and to repel invasions.

§ 4. All officers of the militia shall be elected or appointed in such manner as may be prescribed by law; *Provided*, that the general assembly shall not make any such elections or appointments, other than those of adjutants-general, and quartermasters-general.

§ 5. The governor shall appoint his aides-de-camp; majors-general, their aides-de-camp, and all other division and staff officers;

brigadiers-general shall appoint their aids, and all other brigade staff-officers; and colonels shall appoint their regimental staff-officers.

§ 6. The general assembly shall fix by law the method of dividing the militia into divisions, brigades, regiments, battalions, and companies, and shall fix the rank or all staff-officers.

ARTICLE V.

JUDICIAL DEPARTMENT.

§ 1. The judicial power of this State shall be vested in one supreme court, circuit courts to be held in each county in the state, and such inferior courts of law and equity, to consist of not more than five members, as the general assembly may, from time to time, direct, ordain and establish.

§ 2. The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state, under such restrictions and regulations, not repugnant to this constitution, as may, from time to time, be prescribed by law; *Provided*, that the supreme court shall have power to issue writs of injunction, mandamus, quo warranto, habeas corpus, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdictions.

§ 3. Until the general assembly shall otherwise prescribe, the powers of the supreme court shall be vested in, and its duties shall be performed by, the judges of the several circuit courts within this state; and they, or a majority of them, shall hold such sessions of the supreme court, and at such times as may be directed by law; *Provided*, that no judge of the supreme court shall be appointed before the commencement of the first session of the general assembly, which shall be begun and held after the first day of January, in the year one thousand eight hundred and twenty-five.

§ 4. The supreme court shall be holden at the seat of government, but may adjourn to a different place, if that shall have become dangerous from an enemy, or from disease.

§ 5. The state shall be divided into convenient circuits, and each circuit shall contain not less than three, nor more than six counties; and for each circuit there shall be appointed a judge, who shall, after his appointment, reside in the circuit for which he may be appointed.

§ 6. The circuit court shall have original jurisdiction in all matters, civil and criminal, within this state, not otherwise excepted in this constitution; but in civil cases, only when the matter or sum in controversy exceeds fifty dollars.

§ 7. A circuit court shall be held in each county in the State, at least twice in every year, and the judges of the several circuit courts may hold courts for each other, when they may deem it expedient, and shall do so when directed by law.

§ 8. The general assembly shall have power to establish a court

or courts of chancery, with original and appellate equity jurisdiction; and until the establishment of such court or courts, the said jurisdiction shall be vested in the judges of the circuit courts respectively; *Provided*, that the judges of the several circuit courts shall have power to issue writs of injunction, returnable into the courts of chancery.

§ 9. The general assembly shall have power to establish, in each county within this state, a court of probate, for the granting of letters testamentary and of administration, and for orphans' business.

§ 10. A competent number of justices of the peace shall be appointed in and for each county, in such mode and for such term of office as the general assembly may direct. Their jurisdiction in civil cases shall be limited to causes in which the amount in controversy shall not exceed fifty dollars. And in all cases tried by a justice of the peace, right of appeal shall be secured, under such rules and regulations as may be prescribed by law.

§ 11. Judges of the supreme and circuit courts, and courts of chancery, shall, at stated times, receive for their services a compensation, which shall be fixed by law, and shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under this State, the United States, or any other power.

§ 12. Chancellors, judges of the supreme court [judges of the circuit courts, and judges of the inferior courts] shall be elected by joint vote of both houses of the general assembly.

[§ 13. The judges of the several courts in this State shall hold their offices during good behavior; and for willful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of two-thirds of each house of the general assembly; *Provided, however*, that the cause or causes for which such removal shall be required, shall be stated at length in such address, and entered on the journals of each house; *And provided further*, that the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defense, before any vote for such address shall pass, and in all such cases the vote shall be taken by yeas and nays, and entered on the journals of each house respectively; *And provided also*, that the judges of the several circuit courts, who shall be appointed before the commencement of the first session of the general assembly, which shall be begun and held after the first day of January, in the year of our Lord one thousand eight hundred and twenty-five, shall only hold their offices during good behavior, until the end of the said session, at which time their commission shall expire.]

§ 14. No person who shall have arrived at the age of seventy years shall be appointed to, or continue in, the office of judge in this State.

§ 15. Clerks of the circuit and inferior courts in this state shall be elected by the qualified electors in each county, for the term of four

years, and may be removed from office for such causes and in such manner as may be prescribed by law; and should a vacancy occur, subsequent to an election, it shall be filled by the judge or judges of the court in which such vacancy exists; and the person so appointed shall hold his office until the next general election; *Provided, however*, that after the year one thousand eight hundred and twenty-six, the general assembly may prescribe a different mode of appointment, but shall not make such appointment.

§ 16. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the state; as also the judges of the circuit courts in their respective districts, and judges of the inferior courts in their respective counties.

§ 17. The style of all process shall be "The State of Alabama," and all prosecutions shall be carried on in the name and by the authority of the state of Alabama, and shall conclude "against the peace and dignity of the same."

§ 18. There shall be an attorney-general for the state, and as many solicitors as the general assembly may deem necessary, to be elected by a joint vote thereof, who shall hold their offices for the term of four years, and shall receive for their services a compensation, which shall not be diminished during their continuance in office.

IMPEACHMENTS.

§ 1. The house of representatives shall have the sole power of impeaching.

§ 2. All impeachments shall be tried by the senate; when sitting for that purpose, the senators shall be on oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

§ 3. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than removal from office, and to disqualification to hold any office of honor, trust, or profit, under the state; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment, according to law.

ARTICLE VI.

GENERAL PROVISIONS.

§ 1. The members of the general assembly, and all officers, executive and judicial, before they enter on the execution of their respective offices, shall take the following oath or affirmation, to wit: "I solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States, and the Constitution of the State of Alabama, so long as I continue a citizen thereof, and that I will faithfully discharge, to the best of my abilities, the duties of —, according to law—So help me God."

§ 2. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

§ 3. The general assembly shall have power to pass such penal laws to suppress the evil practice of dueling, extending to disqualification from office or the tenure thereof, as they may deem expedient.

§ 4. Every person shall be disqualified from holding any office or place of honor or profit, under the authority of the state, who shall be convicted of having given or offered any bribe to procure election or appointment.

§ 5. Laws shall be made to exclude from office, from suffrage, and from serving as jurors, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper conduct.

§ 6. In all elections by the general assembly, the members thereof shall vote *viva voce*, and the votes shall be entered on the journals.

§ 7. No money shall be drawn from the treasury, but in consequence of an appropriation made by law; and a regular statement and account of the receipts and expenditures of all public moneys shall be published annually.

§ 8. All lands liable to taxation in this state, shall be taxed in proportion to their value.

§ 9. The general assembly shall direct, by law, in what manner, and in what courts, suits may be brought against the state.

§ 10. It shall be the duty of the general assembly to regulate, by law, the cases in which deductions shall be made from the salaries of public officers, for neglect of duty in their official capacities, and the amount of such deduction.

§ 11. Absence on business of this state, or of the United States, or on a visit, or necessary private business, shall not cause a forfeiture of a residence once obtained.

§ 12. No member of congress, nor any person holding any office of profit or trust under the United States (the office of postmaster excepted), or either of them, or any foreign power, shall hold or exercise any office of profit under this state.

§ 13. Divorces from the bonds of matrimony shall not be granted but in cases provided for by law, by suit in chancery; and no decree for such divorce shall have effect, until the same shall be sanctioned by two-thirds of both houses of the general assembly.

§ 14. In prosecutions for the publishing of papers investigating the official conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence and in all indictments for libels, the jury shall have

a right to determine the law and the facts, under the direction of the courts.

§ 15. Returns of all elections for officers, who are to be commissioned by the governor, and for members of the general assembly, shall be made to the secretary of state.

§ 16. No new county shall be established by the general assembly, which shall reduce the county or counties, or either of them, from which it shall be taken, to a less content than nine hundred square miles; nor shall any county be laid off of less contents. Every new county, as to the right of suffrage and representation, shall be considered as a part of the county or counties from which it was taken, until entitled by numbers to the right of separate representation.

§ 17. The general assembly shall, at their first session, which may be holden in the year eighteen hundred and twenty-eight, or at the next succeeding session, arrange and designate boundaries for the several counties within the limits of this state, to which the Indian title shall have been extinguished, in such manner as they may deem expedient, which boundaries shall not be afterward altered, unless by the agreement of two-thirds of both branches of the general assembly; and in all cases of ceded territory acquired by the state, the general assembly may make such arrangements and designations of the boundaries of counties within such ceded territory, as they may deem expedient, which only shall be altered in like manner; *Provided*, that no county hereafter to be formed, shall be of less extent than nine hundred square miles.

§ 18. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties, who may choose that summary mode of adjustment.

§ 19. It shall be the duty of the general assembly, as soon as circumstances will permit, to form a penal code, founded on principles of reformation, and not of vindictive justice.

§ 20. Within five years after the adoption of this constitution, the body of our laws, civil and criminal, shall be revised, digested, and arranged under proper heads, and promulgated in such manner as the general assembly may direct; and a like revision, digest, and promulgation, shall be made within every subsequent period of ten years.

§ 21. The general assembly shall make provisions by law for obtaining correct knowledge of the several objects proper for improvement in relation to the navigable waters, and to the roads in this state, and for making a systematic and economical application of the means appropriated to those objects.

§ 22. In the event of the annexation of any foreign territory to this state, by a cession from the United States, laws may be passed, extending to the inhabitants of such territory all the rights and privileges which may be required by the terms of such cession; anything in this constitution to the contrary notwithstanding.

EDUCATION.

Schools, and the means of education, shall forever be encouraged in this state; and the general assembly shall take measures to preserve, from unnecessary waste and damage, such lands as are or hereafter may be granted by the United States for the use of schools within each township in this state, and apply the funds, which may be raised from such lands, in strict conformity to the object of such grant. The general assembly shall take like measures for the improvement of such lands as have been or may be hereafter granted by the United States to this state, for the support of a seminary of learning, and the moneys which may be raised from such lands by rent, lease, or sale, or from any other quarter, for the purpose aforesaid, shall be and remain a fund for the exclusive support of a state university, for the promotion of the arts, literature, and the sciences; and it shall be the duty of the general assembly, as early as may be, to provide effectual means for the improvement and permanent security of the funds and endowments of such institution.

ESTABLISHMENT OF BANKS.

§1. One state bank may be established, with such number of branches as the general assembly may, from time to time, deem expedient; *Provided*, that no branch bank shall be established, nor bank charter renewed, under the authority of this state, without the concurrence of two-thirds of both houses of the general assembly; *And provided also*, that not more than one bank nor branch bank shall be established, nor bank charter renewed, at any one session of the general assembly, nor shall any bank or branch bank be established, or bank charter renewed, but in conformity with the following rules:

1. At least two-fifths of the capital stock shall be reserved for the state.

2. A proportion of power in the direction of the bank shall be reserved to the state, equal at least to its proportion of stock therein.

3. The state, and the individual stockholders, shall be liable, respectively, for the debts of the bank, in proportion to their stock holden therein.

4. The remedy for collecting debts shall be reciprocal, for and against the bank.

5. No bank shall commence operations, until half of the capital stock subscribed for be actually paid in gold or silver, which amount shall, in no case, be less than one hundred thousand dollars.

6. In case any bank or branch bank shall neglect or refuse to pay, on demand, any bill, note, or obligation, issued by the corporation according to the promise therein expressed, the holder of any such note, bill, or obligation, shall be entitled to receive and recover interest thereon, until the same shall be paid, or specie payments are resumed, by said bank, at the rate of twelve per cent per annum from the date of such demand, unless the general assembly shall sanction such suspension of

specie payments; and the general assembly shall have power, after such neglect or refusal, to adopt such measures as they may deem proper, to protect and secure the rights of all concerned, and to declare the charter of such bank forfeited.

7. After the establishment of a general state bank, the banks of this state now existing may be admitted as branches thereof, upon such terms as the legislature and the said banks may agree, subject, nevertheless, to the preceding rules.

SLAVES.

§ 1. The general assembly shall have no power to pass laws for the emancipation of slaves, without the consent of their owners, or without paying their owners, previous to such emancipation, a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to this state from bringing with them such persons as are deemed slaves by the laws of any one of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this state; *Provided*, that such person or slave be the *bona fide* property of such emigrants; *And provided also*, that laws may be passed to prohibit the introduction into this state of slaves who have committed high crimes in other states or territories. They shall have power to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have full power to prevent slaves from being brought into this state as merchandise, and also to oblige the owners of slaves to treat them with humanity, to provide for them necessary food and clothing, to abstain from all injuries to them extending to life or limb, and, in case of their neglect, or refusal to comply with the directions of such laws, to have such slaves sold for the benefit of the owner or owners.

§ 2. In the prosecution of slaves for crimes, of a higher grade than petit larceny, the general assembly shall have no power to deprive them of an impartial trial by a petit jury.

§ 3. Any person who shall maliciously dismember or deprive a slave of life, shall suffer such punishment as would be inflicted in case the like offense had been committed on a free white person, and on the like proof, except in case of insurrection of such slave.

MODE OF AMENDING AND REVISING THE CONSTITUTION.

The general assembly, whenever two-thirds of each house shall deem it necessary, may propose amendments to this constitution, which proposed amendments shall be duly published in print, at least three months before the next general election of representatives, for the consideration of the people, and it shall be the duty of the several returning officers, at the next general election which shall be held for representatives, to open a poll for, and make a return to the secretary of state for

the time being, of the names of all those voting for representatives who have voted on such proposed amendments, and if thereupon it shall appear that a majority of all the citizens of this state, voting for representatives, have voted in favor of such proposed amendments, and two-thirds of each house of the next general assembly shall, after such an election, and before another, ratify the same amendments by yeas and nays, they shall be valid, to all intents and purposes, as parts of this constitution; *Provided*, that the said proposed amendments shall, at each of the said sessions, have been read three times, on three several days, in each house.

SCHEDULE.

§ 1. That no inconvenience may arise from a change of territorial to a permanent state government, it is declared that all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies corporate, shall continue as if no such change had taken place; and all process, which shall, before the third Monday in September next, be issued in the name of the Alabama Territory, shall be as valid as if issued in the name of the state.

§ 2. All fines, penalties, forfeitures, and escheats, accruing to the Alabama Territory, shall accrue to the use of the state.

§ 3. The validity of all bonds and recognizances, executed to the governor of the Alabama Territory, shall not be impaired by the change of government, but may be sued for and recovered in the name of the governor of the state of Alabama and his successors in office; and all criminal or penal actions, arising or now depending, within the limits of this state, shall be prosecuted to judgment and execution in the name of said state; all causes of action arising to individuals, and all suits at law or in equity, now depending in the several courts within the limits of this state, and not already barred by law, may be commenced in, or transferred to, such courts as may have jurisdiction thereof.

§ 4. All officers, civil or military, now holding commissions under the authority of the United States or of the Alabama Territory, within this state, shall continue to hold and exercise their respective offices under the authority of this state, until they shall be superseded under the authority of this constitution, and shall receive from the treasury of this state the same compensation which they heretofore received, in proportion to the time they shall be so employed. The governor shall have power to fill vacancies by commissions, to expire as soon as elections or appointments can be made to such offices by authority of this constitution.

§ 5. All laws and parts of laws, now in force in the Alabama Territory, which are not repugnant to the provisions of this constitution, shall continue and remain in force as the laws of this state, until they expire by their own limitation, or shall be altered, or repealed, by the legislature thereof.

§ 6. Every white male person above the age of twenty-one years, who shall be a citizen of the United States, and resident in this state at the time of the adoption of this constitution, shall be deemed a qualified elector at the first election to be holden in this state. And every white male person who shall reside within the limits of this state at the time of the adoption of this constitution, and shall be otherwise qualified, shall be entitled to hold any office or place of honor, trust, or profit under this state; anything in this constitution to the contrary notwithstanding.

§ 7. The president of this convention shall issue writs of election directed to the sheriffs of the several counties, requiring them to cause an election to be held for governor, representative to the congress of the United States, members of the general assembly, clerks of the several courts, and sheriffs of the respective counties, at the respective places of election in said counties, on the third Monday and the day following in September next, which election shall be conducted in the manner prescribed by the existing election laws of the Alabama Territory; and the said governor and members of the general assembly, then duly elected, shall continue to discharge the duties of their respective offices, for the time prescribed by this constitution, and until their successors shall be duly qualified.

§ 8. Until the first enumeration shall be made, as directed by this constitution, the county of Autauga shall be entitled to two representatives; the county of Baldwin to one representative; the county of Blount to three representatives; the county of Cahawba to one representative; the county of Clarke to two representatives; the county of Conecuh to two representatives; the county of Cotaco to two representatives; the county of Dallas to two representatives; the county of Franklin to two representatives; the county of Lauderdale to two representatives; the county of Lawrence to two representatives; the county of Limestone to three representatives; the county of Madison to eight representatives; the county of Marion to one representative; the county of Monroe to five representatives; the county of Montgomery to three representatives; the county of Mobile to one representative; the county of St. Clair to one representative; the county of Shelby to two representatives; the county of Tuscaloosa to three representatives; and the county of Washington to two representatives. And each county shall be entitled to one senator, who shall serve for one term.

§ 9. The oaths of office, herein directed to be taken, may be administered by any justice of the peace, until the general assembly shall otherwise direct.

ORDINANCE.

This convention, for and in behalf of the people inhabiting this state, do accept the proposition offered by the act of congress, under which they are assembled; and this convention, for and in behalf of the people inhabiting this state, do ordain, agree, and declare, that they forever

disclaim all right and title to the waste or unappropriated lands lying within this state; and that the same shall be and remain at the sole and entire disposition of the United States, and, moreover, that each and every tract of land, sold by the United States after the first day of September next, shall be and remain exempt from any tax, laid by the order or under the authority of this state, whether for state, county, township, parish, or any other purpose whatsoever, for the term of five years from and after the respective days of sales thereof; and that the lands belonging to the citizens of the United States, residing out of the limits of this State, shall never be taxed higher than the lands belonging to persons residing therein; and that no tax shall be imposed on the property of the United States; and that all navigable waters within this state shall forever remain public highways, free to the citizens of this state and of the United States, without any tax, duty, impost, or toll therefor, imposed by this state; and this ordinance is hereby declared irrevocable, without the consent of the United States.

Done in convention at Huntsville, this second day of August, in the year of our Lord one thousand eight hundred and nineteen, and of American Independence the forty-fourth.

J. W. WALKER,
President of the Convention.

Attest:

JOHN CAMPBELL,
Secretary.

AMENDMENTS TO THE CONSTITUTION.

FIRST.—ADOPTED JANUARY, 1830.*

The judges of the several courts of this state shall hold their offices for the term of six years; and for willful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them on the address of two-thirds of each house of the general assembly; *Provided, however,* that the cause or causes for which such removal shall be required, shall be stated at length in such address, and entered on the journals of each house; *And provided, further,* that the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defense, before any vote for such address shall pass; and in all such cases the vote shall be taken by yeas and nays, and entered on the journals of each house respectively; *And provided also,* that the judges now in office may hold their offices until the session of the general assem-

*This amendment strikes out the thirteenth section of the fifth article.

bly which shall be held in the year one thousand eight hundred and thirty-three, and until their successors shall be elected and qualified, unless removed by address or impeachment.

SECOND.—ADOPTED 1846.

Strike out the words “one year,” where they occur in the second section of the third article, and insert in lieu thereof “two years.”

Strike out the words “every year,” where they occur in the third section of the third article, and insert in lieu thereof “at each session.”

Strike out the word “annual,” where it occurs in the eighth section of the fourth article, and insert in lieu thereof, “biennial.”

Strike out the thirteenth section of the third article and insert in lieu thereof the following: “At the first meeting of the general assembly after the adoption of the proposed amendments, the senators when convened shall be divided into two classes, as nearly equal as may be. The seats of the senators of the first class shall be vacated at the expiration of the two next ensuing years; so that one-half may be biennially chosen thereafter, and a rotation thereby kept up perpetually.”

Strike out the twenty-ninth section of the third article, which permanently locates the seat of government in this state.

THIRD.—ADOPTED 1850.

Strike out the ninth section of the third article of the constitution, and in lieu thereof insert the following:

“§ 9. The general assembly shall cause an enumeration to be made in the year eighteen hundred and fifty, and eighteen hundred and fifty-five, and every ten years thereafter, of all the white inhabitants of this state; and the whole number of representatives shall, at the first regular session after such enumeration, be apportioned among the several counties, cities, or towns entitled to separate representation, according to their respective number of white inhabitants, and the said apportionment, when made, shall not be subject to alteration until after the next census shall be taken. The number of representatives shall not exceed one hundred, and the number of senators shall not exceed thirty-three; yet each county, notwithstanding it may not have a number of white inhabitants equal to the ratio fixed, shall have one representative.”

Strike out the thirteenth section of the third article of the constitution, and insert in lieu thereof the following:

“§ 13. Senators shall be chosen for the term of four years; yet at the general election after every new appointment, elections shall be held anew in every senatorial district; and the senators elected, when convened at the first session, shall be divided by lot into two classes, as nearly equal as may be; the seats of those of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years, dating in both cases from the day of elec-

tion, so that one-half may be biennially chosen, except as above provided.”

At the end of the twelfth section of the fifth article of the constitution, add—

“But at and after the session of the general assembly to be held in the winter of the years eighteen hundred and forty-nine-fifty, the general assembly shall provide by law for the election of judges of the circuit courts by the qualified electors of their circuits respectively, and for the elections of judges of the courts of probate and other inferior courts (not including chancellors) by the qualified electors of the counties, cities, or districts for which such courts may be respectively established; the first Monday in November in any year shall be the day for any election of such judges by the people, or such other day, not to be within a less period than two months of the general election for governor, members of the general assembly, or members of congress, as the general assembly may by law prescribe; but no change to be made in any circuit or district, or in the mode or time of electing, shall affect the right of any judge to hold office during the term prescribed by the constitution, except at the first elections thereof to be made by the people after the ratification of these amendments or either of them, which elections shall then all be had on the same day throughout the state, and the terms of the judges then to be elected shall commence on that day; vacancies in the office of judge shall be filled by the governor, and the persons appointed thereto by him shall hold until the next first Monday in November, or other election day of judges, and until the election and qualification of their successors respectively; and the general assembly shall have power to annex to the offices of any of the judges of the inferior courts the duties of clerks of such courts respectively.”

CONSTITUTION OF THE STATE OF ALABAMA—1861.

REVISED BY ORDER OF THE CONVENTION OF THE PEOPLE, ASSEMBLED AT
MONTGOMERY ON THE SEVENTH DAY OF JANUARY, A.D. 1861.

WE, the people of the state of Alabama, having separated ourselves from the government known as the United States of America, and being now by our representatives in convention assembled, and acting in our sovereign and independent character, in order to establish justice, ensure domestic tranquillity, and secure the blessings of liberty to ourselves and our posterity—invoking the favor and guidance of Almighty God—do ordain and establish the following constitution and form of government for the state of Alabama: And the boundaries of this state are established to be: Beginning where the thirty-first degree of north latitude crosses the Perdido river; thence east, to the boundary line of the state of Georgia; thence along said line to the southern boundary line of the state of Tennessee; thence west, along the southern boundary line of the state of Tennessee; crossing the Tennessee river, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear creek; thence by a direct line to the northwest corner of Washington county, in this state, as originally formed; thence southerly along the line of Mississippi to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore, to the Perdido river; and thence up the same to the beginning.

ARTICLE I.

DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare:

§ 1. That all freemen, when they form a social compact, are equal in rights; and that no man or set of men are entitled to exclusive, separate public emoluments or privileges, but in consideration of public services.

§ 2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and, therefore, they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government, in such manner as they may think expedient.

§ 3. No person within this state shall, upon any pretense, be deprived of the inestimable privilege of worshipping God in the manner

most agreeable to his own conscience; nor be compelled to attend any place of worship; nor shall any one ever be obliged to pay tithes, taxes, or other rate, for the building or repairing any place of worship, or for the maintenance of any minister or ministry.

§ 4. No human authority ought, in any case whatever, to control or interfere with the rights of conscience.

§ 5. No person shall be hurt, molested, or restrained, in his religious profession, sentiments, or persuasions, provided he does not disturb others in their religious worship.

§ 6. The civil rights, privileges, or capacities of any citizen, shall in no way be diminished or enlarged, on account of his religious principles.

§ 7. There shall be no establishment of religion by law; no preference shall ever be given by law to any religious sect, society, denomination, or mode of worship; and no religious tests shall ever be required as a qualification to any office or public trust under this state.

§ 8. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

§ 9. The people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures or searches; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

§ 10. In all criminal prosecutions, the accused has a right to be heard by himself and counsel; to demand the nature and cause of the accusation, and have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and, in all prosecutions, by indictment or information, a speedy public trial by an impartial jury of the county or district in which the offense shall have been committed; he shall not be compelled to give evidence against himself, nor shall he be deprived of his life, liberty, or property, but by due course of law.

§ 11. No person shall be accused, arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and no person shall be punished, but in virtue of a law, established and promulgated prior to the offense, and legally applied.

§ 12. No person shall, for any indictable offense, be proceeded against criminally, by information; except in cases arising in the land and naval forces, or the militia when in actual service, or, by leave of the court, for oppression or misdemeanor in office.

§ 13. No person shall, for the same offense, be twice put in jeopardy of life or limb; nor shall any person's property be taken or applied to public use, unless just compensation be made therefor.

§ 14. All courts shall be open, and every person, for an injury done him, in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered, without sale, denial, or delay.

§ 15. No power of suspending laws shall be exercised, except by the general assembly, or its authority.

§ 16. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

§ 17. All persons shall, before conviction, be bailable by sufficient securities, except for capital offenses, when the proof is evident, or the presumption great; and the privilege of the writ of "*habeas corpus*" shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

§ 18. The person of a debtor, where there is not strong presumption of fraud, shall not be detained in prison after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

§ 19. No *ex post facto* law, nor law impairing the obligation of contracts shall be made.

§ 20. No person shall be attainted of treason or felony by the general assembly. No attainder shall work corruption of blood, nor forfeiture of estate.

§ 21. The estates of suicides shall descend or vest as in cases of natural death; if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

§ 22. The citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

§ 23. Every citizen has a right to bear arms in defense of himself and the state.

§ 24. No standing army shall be kept up without the consent of the general assembly; and, in that case, no appropriation of money for its support shall be for a longer term than one year; and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

§ 25. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

§ 26. No title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this state; nor shall any office be created, the appointment of which shall be for a longer term than during good behavior.

§ 27. Emigration from this state shall not be prohibited, nor shall any citizen be exiled.

§ 28. The right of trial by jury shall remain inviolate.

§ 29. No person shall be debarred from prosecuting or defending any civil cause, for or against him or herself, before any tribunal in this state, by him or herself, or counsel.

§ 30. This enumeration of certain rights shall not be construed to deny or disparage others retained by the people; and to guard against

any encroachments on the rights herein retained, or any transgression of any of the high powers herein delegated, we declare, that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II.

DISTRIBUTION OF POWERS.

§ 1. The powers of the government of the state of Alabama shall be divided into three distinct departments; and each of them confided to a separate body of magistracy, to wit: Those which are legislative to one; those which are executive to another; and those which are judicial to another.

§ 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

§ 1. The legislative power of this state shall be vested in two distinct branches; the one to be styled the senate, the other the house of representatives, and both together "The General Assembly of the State of Alabama;" and the style of their laws shall be, "Be it enacted by the Senate and House of Representatives of the State of Alabama, in General Assembly convened."

§ 2. The members of the house of representatives shall be chosen by the qualified electors, and shall serve for the term of two years from the day of the commencement of the general election, and no longer.

§ 3. The representatives shall be chosen every two years, on the first Monday in August, until otherwise directed by law.

§ 4. No person shall be a representative, unless he be a white man, a citizen of the state of Alabama, and shall have been an inhabitant of this state two years next preceding his election, and the last year thereof a resident of the county, city, or town, for which he shall be chosen, and shall have attained the age of twenty-one years.

§ 5. Every male white person of the age of twenty-one years, or upwards, who shall be a citizen of this state, and shall have resided therein one year next preceding an election, and the last three months within a county, city, or town, in which he offers to vote, shall be deemed a qualified elector; but no elector shall be entitled to vote except in the county, city, or town (entitled to separate representation) in which he may reside at the time of the election.

§ 6. Electors shall, in all cases, except in those of treason, felony,

or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

§ 7. In all elections by the people, the electors shall vote by ballot, until the general assembly shall otherwise direct.

§ 8. Elections for representatives for the several counties shall be held at the place of holding their respective courts, and at such other places as may be prescribed by law; *Provided*, that when it shall appear to the general assembly that any city or town shall have a number of white inhabitants equal to the ratio then fixed, such city or town shall have a separate representation, according to the number of white inhabitants therein; which shall be retained so long as such city or town shall contain a number of white inhabitants equal to the ratio which may from time to time be fixed by law; and thereafter, and during the existence of the right of separate representation, in such city or town, elections for the county in which such city or town (entitled to such separate representation) is situated, shall not be held in such city or town; but it is understood, and hereby declared, that no city or town shall be entitled to separate representation, unless the number of white inhabitants in the county in which such city or town is situated, residing out of the limits of said city or town, be equal to the existing ratio; or unless the residuum or fraction of such city or town shall, when added to the white inhabitants of the county residing out of the limits of said city or town, be equal to the ratio fixed by law for one representative; *And provided*, that if the residuum or fraction of any city or town, entitled to separate representation, shall, when added to the residuum of the county in which it may lie, be equal to the ratio fixed by law for one representative, then the aforesaid county, city, or town, having the largest residuum, shall be entitled to such representation; *And provided also*, that where there are two or more counties adjoining, which have residuums or fractions over and above the ratio then fixed by law, if said residuums or fractions, when added together, will amount to such ratio, in that case one representative shall be added to that county having the largest residuum.

§ 9. The general assembly shall cause an enumeration to be made in the year eighteen hundred and fifty, and eighteen hundred and fifty-five, and every ten years thereafter, of all the white inhabitants of this state; and the whole number of representatives shall, at the first regular session after such enumeration, be apportioned among the several counties, cities, or towns, entitled to separate representation, according to their respective number of white inhabitants, and the said apportionment, when made, shall not be subject to alteration until after the next census shall be taken.

§ 10. The general assembly shall, at the first session after making every such enumeration, fix by law the whole number of senators, and shall divide the state into the same number of districts, as nearly equal, in the number of white inhabitants, as may be, each of which districts shall be entitled to one senator and no more; *Provided*, that

the whole number of senators shall never be less than one-fourth, nor more than one-third, of the whole number of representatives.

§ 11. When a senatorial district shall be composed of two or more counties, the counties of which such district consists, shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a district.

§ 12. Senators shall be chosen by the qualified electors, for the term of four years, at the same time, in the same manner, and at the same places, where they may vote for members of the house of representatives; and no person shall be a senator, unless he be a white man, a citizen of the state, and an inhabitant thereof two years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained to the age of twenty-seven years.

§ 13. Senators shall be chosen for the term of four years; yet, at the general election after every new apportionment, elections shall be held anew in every senatorial district; and the senators elected, when convened at the first session, shall be divided by lot into two classes, as nearly equal as may be: the seats of those of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years, dating in both cases from the day of election, so that one-half may be biennially chosen, except as above provided.

§ 14. The house of representatives, when assembled, shall choose a speaker, and its other officers; and the senate shall choose a president, and its other officers biennially; each house shall judge of the qualifications, elections, and returns, of its own members; but a contested election shall be determined in such manner as shall be directed by law.

§ 15. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

§ 16. Each house may determine the rules of its own proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member; but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free and independent state.

§ 17. Each house, during the session, may punish, by imprisonment, any person, not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings; *Provided*, that such imprisonment shall not, at any one time, exceed forty-eight hours.

§ 18. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the

desire of one-tenth of the members present, be entered on the journals. Any member of either house shall have liberty to dissent from, or protest against, any act or resolution which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journals.

§ 19. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; allowing one day for every twenty miles such member may reside from the place at which the general assembly is convened; nor shall any member be liable to answer for anything spoken in debate in either house, in any court or place elsewhere.

§ 20. When vacancies happen in either house, the governor, or the person exercising the powers of the governor, shall issue writs of election to fill such vacancies.

§ 21. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

§ 22. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

§ 23. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of a law, until on three several days it be read in each house, and free discussion be allowed thereon, unless, in case of urgency, four-fifths of the house in which the bill shall be depending may deem it expedient to dispense with this rule; and every bill, having passed both houses, shall be signed by the speaker and president of their respective houses; *Provided*, that all bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them as other bills.

§ 24. Each member of the general assembly shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

§ 25. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this state, except such offices as may be filled by elections by the people.

§ 26. No person holding any lucrative office under this state, or any other power, the office of postmaster, offices in the militia to which there is attached no annual salary, justices of the peace, commissioners of the court of county commissioners, notary public, and commissioner of deeds excepted, shall be eligible to the general assembly of this state.

§ 27. No person, who may hereafter be a collector or holder of public moneys, shall have a seat in either house of the general assembly, or be eligible to any office of trust or profit under this state, until

he shall have accounted for, and paid into the treasury, all sums for which he may be accountable.

§ 28. The general assembly shall meet annually, on such day as may be provided by law, and may continue in session not more than thirty days. The next session of the general assembly shall commence on the second Monday in November, eighteen hundred and sixty-one.

§ 29. No special law shall be enacted for the benefit of individuals or private corporations, in cases which are provided for by a general law, or where the relief sought can be given by any court of this state.

§ 30. Private property shall not be taken for private use, or for the use of corporations, other than municipal, without the consent of the owner; but the right of way may be secured by law, to persons and corporations, over the lands of persons and corporations; also, the right to establish depots, stations and turnouts to works of public improvement; *Provided*, just compensation is made to the owner of such land.

§ 31. No power to levy taxes shall be delegated to individuals or private corporations.

§ 32. Taxes shall not be levied for the benefit of individuals or corporations, other than municipal corporations, without the consent of the tax-payer; but this section shall not be so construed as to affect the power of the general assembly to perfect or secure any right or privilege arising under any existing law of this state; and no right or privilege arising under any existing law of this state, shall be affected by this section.

§ 33. The general assembly shall not borrow or raise money on the credit of the state, except for purposes of military defense against actual or threatened invasion, rebellion, or insurrection, unless two-thirds of the members elected to each house, shall concur; nor shall the debts or liabilities of any corporation, person or persons, or other state be guaranteed; or any money, credit or thing loaned, or given away, unless by a like concurrence of each house, voting, in cases provided for in this section, by ayes and nays, to be placed upon the journals.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

§ 1. The supreme executive power of this state shall be vested in a chief magistrate, who shall be styled the "Governor of the State of Alabama."

§ 2. The governor shall be elected by the qualified electors at the time and places when they shall respectively vote for representatives.

§ 3. The returns of every election for governor shall be sealed up, and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall, during the first week of the session, open and publish them in the presence of both houses of the general assembly. The person having the highest number of votes

shall be governor, but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of both houses. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

§ 4. The governor shall hold his office for the term of two years from the time of his installation, and until his successor shall be qualified, but shall not be eligible for more than four years in any term of six years; he shall be at least thirty years of age, shall be a native citizen of the state of Alabama, and native of one of the states or territories, lately styled the "United States of America."

§ 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected.

§ 6. He shall be commander-in-chief of the army and navy of this state, except when acting with any other power; in which case, the general assembly shall fix his rank.

§ 7. He may require information in writing from the officers of the executive department, on any subject relating to the duties of their respective offices.

§ 8. He may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy, or from contagious disorders; in case of disagreement between the two houses with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next annual meeting of the general assembly.

§ 9. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient.

§ 10. He shall take care that the laws be faithfully executed.

§ 11. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law. In cases of treason he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons; and he may, in the recess of the senate, respite the sentence until the end of the next session of the general assembly.

§ 12. There shall be a seal of this state, which shall be kept by the governor, and used by him officially.

§ 13. All commissions shall be in the name and by the authority of the state of Alabama, be sealed with the state seal, signed by the governor, and attested by the secretary of state.

§ 14. There shall be a secretary of state, appointed by joint vote of both houses of the general assembly, who shall continue in office during the term of two years. He shall keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay

the same, and all papers, minutes, and vouchers relative thereto, before the general assembly; and shall perform such other duties as may be required of him by law.

§ 15. Vacancies that may happen in offices, the appointment to which is vested in the general assembly, shall be filled by the governor, during the recess of the general assembly, by granting commissions which shall expire at the end of the next session.

§ 16. Every bill which shall have passed both houses of the general assembly shall be presented to the governor; if he approve, he shall sign it, but if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journals, and proceed to reconsider it; if, after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by a majority of the whole number elected to that house, it shall become a law; but in such cases, the votes of both houses shall be determined by yeas and nays; and the names of the members voting for or against the bill shall be entered on the journals of each house respectively; if any bill shall not be returned by the governor within five days, Sundays excepted, after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall not be a law.

§ 17. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him, or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the cases of a bill.

§ 18. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the state, the president of the senate shall exercise all the power and authority appertaining to the office of governor, until the time pointed out by this constitution for the election of governor shall arrive, unless the general assembly shall provide by law for the election of a governor to fill such vacancy, or until the governor absent or impeached shall return or be acquitted.

§ 19. If, during the vacancy of the office of governor, the president of the senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the state, the speaker of the house of representatives shall, in like manner, administer the government. If there is no president of the senate, or no speaker of the house of representatives, the secretary of state shall exercise all the duties and powers appertaining to the office of governor, until the office of governor is filled, as provided by this constitution.

§ 20. The president of the senate and speaker of the house of rep-

representatives, and the secretary of state, during the time they respectively administer the government, shall receive the same compensation which the governor would have received, had he been employed in the duties of his office.

§ 21. The governor shall always reside, during the session of the general assembly, at the place where their session may be held, and at all other times wherever, in their opinion, public good may require.

§ 22. No person shall hold the office of governor, and any other office or commission, civil or military, either in this state, or under any state, or any other power, at one and the same time.

§ 23. A state treasurer and a comptroller of public accounts shall be biennially elected, by a joint vote of both houses of the general assembly.

§ 24. A sheriff shall be elected in each county by the qualified electors thereof, who shall hold his office for the term of three years, unless sooner removed, and who shall not be eligible to serve either as principal or deputy for the three succeeding years. Should a vacancy occur subsequent to an election, it shall be filled by the governor, as in other cases, and the person so appointed shall continue in office until the next general election, when such vacancy shall be filled by the qualified electors, and the sheriff then elected shall continue in office for three years.

MILITIA.

§ 1. The general assembly shall provide by law for organizing and disciplining the militia of this state.

§ 2. Any person, who conscientiously scruples to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service.

§ 3. The governor shall have power to call forth the militia to execute the laws of the state, to suppress insurrections, and to repel invasions.

§ 4. All officers of the militia shall be elected or appointed in such manner as may be prescribed by law; *Provided*, that the general assembly shall not make any such elections or appointments, other than those of adjutants-general, and quartermasters-general.

§ 5. The governor shall appoint his aides-de-camp; majors-general, their aides-de-camp, and all division and staff officers; brigadiers-general shall appoint their aids, and all other brigade staff-officers; and colonels shall appoint their regimental staff-officers.

§ 6. The general assembly shall fix by law the method of dividing the militia into divisions, brigades, regiments, battalions, and companies, and shall fix the rank of all staff-officers.

ARTICLE V.

JUDICIAL DEPARTMENT.

§ 1. The judicial power of this state shall be vested in one supreme court, circuit courts to be held in each county in the state, and such

inferior courts of law and equity, to consist of not more than five members, as the general assembly may, from time to time, direct, ordain and establish.

§ 2. The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state, under such restrictions and regulations, not repugnant to this constitution, as may, from time to time, be prescribed by law; *Provided*, that the supreme court shall have power to issue writs of injunction, mandamus, quo warranto, habeas corpus, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdictions.

§ 3. The supreme court shall be holden at the seat of government, but may adjourn to a different place, if that shall have become dangerous from an enemy, or from disease.

§ 4. The state shall be divided into convenient circuits, and each circuit shall contain not less than three, nor more than six counties; and for each circuit there shall be appointed a judge, who shall, after his appointment, reside in the circuit for which he may be appointed.

§ 5. The circuit court shall have original jurisdiction in all matters, civil and criminal, within this state, not otherwise excepted in this constitution; but in civil cases, only when the matter or sum in controversy exceeds fifty dollars.

§ 6. A circuit court shall be held in each county in the state, at least twice in every year, and the judges of the several circuit courts may hold courts for each other, when they may deem it expedient, and shall do so when directed by law.

§ 7. The general assembly shall have power to establish a court or courts of chancery, with original and appellate equity jurisdiction; *Provided*, that the judges of the several circuit courts shall have power to issue writs of injunction, returnable into the courts of chancery.

§ 8. The general assembly shall have power to establish, in each county within this state, a court of probate, for the granting of letters testamentary and of administration, and for orphans' business.

§ 9. A competent number of justices of the peace shall be appointed in and for each county, in such mode and for such term of office as the general assembly may direct. Their jurisdiction in civil cases shall be limited to causes in which the amount in controversy shall not exceed fifty dollars. And in all cases tried by a justice of the peace, right of appeal shall be secured, under such rules and regulations as may be prescribed by law.

§ 10. Judges of the supreme and circuit courts, and courts of chancery, shall, at stated times, receive for their services a compensation, which shall be fixed by law, and shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under this state, or any other power.

§ 11. Chancellors and judges of the supreme court shall be elected by joint vote of both houses of the general assembly; but at and after the session of the general assembly, to be held in the winter of the year eighteen hundred and forty-nine-fifty, the general assembly shall provide by law for the election of judges of the circuit courts, by the qualified electors of their circuits respectively, and for the election of judges of the courts of probate, and other inferior courts (not including chancellors), by the qualified electors of the counties, cities, or districts, for which such courts may be respectively established; the first Monday in November in any year shall be the day for any election of such judges by the people, or such other day not to be within a less period than two months of the general election for governor, members of the general assembly, or members of congress, as the general assembly may by law prescribe; but no change to be made in any circuit, or district, or in the mode or time of electing, shall affect the right of any judge to hold office during the term prescribed by the constitution, except at the first elections thereof, to be made by the people, after the ratification of these amendments, or either of them, which elections shall then all be had on the same day throughout the state, and the terms of the judges then to be elected, shall commence on that day; vacancies in the office of judge shall be filled by the governor, and the persons appointed thereto by him shall hold until the next first Monday in November, or other election day of judges, and until the election and qualification of their successors respectively; and the general assembly have power to annex to the offices of any of the judges of the inferior courts the duties of clerks of such courts respectively.

§ 12. The judges of the several courts of this state shall hold their offices for the term of six years; and for willful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of two-thirds of each house of the general assembly; *Provided, however,* that the cause or causes for which such removal shall be required, shall be stated at length in such address, and entered on the journals of each house; *And provided further,* that the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defense, before any vote for such address shall pass, and in all such cases the vote shall be taken by yeas and nays, and entered on the journals of each house respectively; *And provided also,* that the judges now in office may hold their offices until the session of the general assembly, which shall be held in the year one thousand eight hundred and thirty-three, and until their successors shall be elected and qualified, unless removed by address or impeachment.

§ 13. No person who shall have arrived at the age of seventy years shall be appointed to, or continue in, the office of judge in this state.

§ 14. Clerks of the circuit and inferior courts in this state shall

be elected by the qualified electors in each county; for the term of four years, and may be removed from office for such causes and in such manner as may be prescribed by law; and should a vacancy occur, subsequent to an election, it shall be filled by the judge or judges of the court in which such vacancy exists; and the person so appointed shall hold his office until the next general election; *Provided, however,* that after the year one thousand eight hundred and twenty-six, the general assembly may prescribe a different mode of appointment, but shall not make such appointment.

§ 15. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the state; as also the judges of the circuit courts in their respective districts, and judges of the inferior courts in their respective counties.

§ 16. The style of all process shall be "The State of Alabama," and all prosecutions shall be carried on in the name and by the authority of the state of Alabama, and shall conclude "against the peace and dignity of the same."

§ 17. There shall be an attorney-general for the state, and as many solicitors as the general assembly may deem necessary, to be elected by a joint vote thereof, who shall hold their offices for the term of four years, and shall receive for their services a compensation, which shall not be diminished during their continuance in office.

IMPEACHMENTS.

§ 1. The house of representatives shall have the sole power of impeaching.

§ 2. All impeachments shall be tried by the senate: when sitting for that purpose, the senators shall be on oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

§ 3. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than removal from office, and to disqualification to hold any office of honor, trust, or profit, under the state; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment, according to law.

ARTICLE VI.

GENERAL PROVISIONS.

§ 1. The members of the general assembly, and all officers, executive and judicial, before they enter on the execution of their respective offices, shall take the following oath or affirmation, to wit: "I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the state of Alabama, so long as I continue a citizen thereof, and that I will faithfully discharge, to the best of my abilities, the duties of —, according to law. So help me God."

§ 2. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

§ 3. The general assembly shall have power to pass such penal laws to suppress the evil practice of dueling, extending to disqualification from office or the tenure thereof, as they may deem expedient.

§ 4. Every person shall be disqualified from holding any office or place of honor or profit, under the authority of the state, who shall be convicted of having given or offered any bribe to procure his election or appointment.

§ 5. Laws shall be made to exclude from office, from suffrage, and from serving as jurors, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or improper conduct.

§ 6. In all elections by the general assembly, the members thereof shall vote viva voce, and the votes shall be entered on the journals.

§ 7. No money shall be drawn from the treasury, but in consequence of an appropriation made by law; and a regular statement and account of the receipts and expenditures of all public moneys shall be published annually.

§ 8. All lands liable to taxation in this state, shall be taxed in proportion to their value.

§ 9. The general assembly shall direct, by law, in what manner, and in what courts, suits may be brought against the state.

§ 10. It shall be the duty of the general assembly to regulate, by law, the cases in which deductions shall be made from the salaries of public officers, for neglect of duty in their official capacities, and the amount of such deduction.

§ 11. Temporary absence from this state shall not cause a forfeiture of a residence once obtained.

§ 12. No member or delegate to any congress of other states or powers, nor persons holding any office of profit or trust under any foreign power, shall hold or exercise any office of profit under this state; *Provided*, that this section does not apply to any deputy, delegate or commissioner elected by this convention.

§ 13. Divorces from the bonds of matrimony shall not be granted but in cases provided for by law by suit in chancery. But decrees for divorce shall be final, unless appealed from within three months from the date of the enrollment thereof.

§ 14. In prosecutions for the publishing of papers investigating the official conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury

shall have a right to determine the law and the facts, under the direction of the courts.

§ 15. Returns of all elections for officers, who are to be commissioned by the governor, and for members of the general assembly, shall be made to the secretary of state.

§ 16. The general assembly may, by a vote of two-thirds of both branches thereof, arrange and designate boundaries for the several counties of this state, which shall not be altered, except by a like vote of the general assembly. But no new county shall be hereafter formed of less extent than nine hundred square miles, nor shall it contain, at the time, less than one-hundredth part of the population of the state, and no existing county shall be hereafter reduced below such area or population by the formation of a new county.

§ 17. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties, who may choose that summary mode of adjustment.

§ 18. It shall be the duty of the general assembly, as soon as circumstances will permit, to form a penal code, founded on principles of reformation.

§ 19. Within five years after the adoption of this constitution, the body of our laws, civil and criminal, shall be revised, digested, and arranged under proper heads, and promulgated in such manner as the general assembly may direct; and a like revision, digest, and promulgation, shall be made within every subsequent period of ten years.

§ 20. The general assembly shall make provisions by law for obtaining correct knowledge of the several objects proper for improvement in relation to the navigable waters, and to the roads in this state, and for making a systematic and economical application of the means appropriated to those objects.

§ 21. In the event of the annexation of any foreign territory to this state, laws may be passed, extending to the inhabitants of such territory all the rights and privileges which may be required by the terms of such acquisition; anything in this constitution to the contrary notwithstanding.

EDUCATION.

Schools, and the means of education, shall forever be encouraged in this state; and the general assembly shall take measures to preserve, from unnecessary waste or damage, such lands as have been granted by the United States for the use of schools within each township in this state, and apply the funds, which may be raised from such lands, in strict conformity to the object of such grant. The general assembly shall take like measures for the improvement of such lands as have been granted by the United States to this state, for the support of a seminary of learning, and the moneys which may be raised from such lands, by rent, lease, or sale, or from any other quarter, for the pur-

pose aforesaid, shall be and remain a fund for the exclusive support of a state university, for the promotion of the arts, literature, and the sciences; and it shall be the duty of the general assembly, as early as may be, to provide effectual means for the improvement and permanent security of the funds and endowments of such institution.

BANKING.

§ 1. No bank shall be established, nor bank charter renewed under the authority of this state, without the concurrence of two-thirds of each house of the general assembly.

§ 2. Not more than one bank shall be established, nor bank charter renewed at any one session of the general assembly, nor shall any bank be established, or bank charter renewed, but in conformity with the following rules:

1. The stockholders shall be liable respectively for the debts of the bank in proportion to their stock holden therein.

2. The remedy for collecting debts shall be reciprocal for and against the bank.

3. No bank shall commence operations until half of the capital stock subscribed for be actually paid in gold or silver, which amount shall, in no case, be less than one hundred thousand dollars.

4. Should any bank neglect or refuse to pay on demand any bill, note or obligation, issued by the corporation, according to the promise therein expressed, the holder of any such note, bill, or obligation shall be entitled to receive and recover interest thereon until the same shall be paid, or specie payments are resumed by said bank, at the rate of twelve per cent. per annum from the date of such demand, unless the general assembly shall sanction such suspension of specie payments by a vote of two-thirds of each house of the general assembly.

5. Whenever any bank suspends specie payments, the charter is thereby forfeited, unless such suspension is legalized, as is provided by the preceding rule at the then next ensuing session of the general assembly after such suspension.

SLAVERY.

§ 1. No slave in this state shall be emancipated by any act done to take effect in this state, or any other country.

§ 2. The humane treatment of slaves shall be secured by law.

§ 3. Laws may be enacted to prohibit the introduction into this state of slaves who have committed high crimes in other states or territories, and to regulate or prevent the introduction of slaves into this state as merchandise.

§ 4. In the prosecution of slaves for crimes, of a higher grade than petit larceny, the general assembly shall have no power to deprive them of an impartial trial by a petit jury.

§ 5. Any person who shall maliciously dismember or deprive a

slave of life, shall suffer such punishment as would be inflicted in case the like offense had been committed on a free white person, and on the like proof, except in case of insurrection of such slave.

EXPLANATORY PROVISIONS.

PART I.

RELATING TO THE CHANGE FROM THE TERRITORIAL TO THE STATE FORM OF GOVERNMENT.

§ 1. That no inconvenience may arise from a change of territorial to a permanent state government, it is declared that all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies corporate, shall continue as if no such change had taken place; and all process, which shall, before the third Monday in September next, be issued in the name of the Alabama Territory, shall be as valid as if issued in the name of the state.

§ 2. All fines, penalties, forfeitures, and escheats, accruing to the Alabama Territory, shall accrue to the use of the state.

§ 3. The validity of all bonds and recognizances, executed to the governor of the Alabama Territory, shall not be impaired by the change of government, but may be sued for and recovered in the name of the governor of the state of Alabama and his successors in office; and all criminal and penal actions, arising or now depending within the limits of this state, shall be prosecuted to judgment and execution in the name of said state, all causes of action arising to individuals, and all suits at law or in equity, now depending in the several courts within the limits of this state, and not already barred by law, may be commenced in, or transferred to, such courts as may have jurisdiction thereof.

§ 4. All officers, civil or military, now holding commissions under the authority of the United States or of the Alabama Territory, within this state, shall continue to hold and exercise their respective offices under the authority of this state, until they shall be superseded under the authority of this constitution, and shall receive from the treasury of this state the same compensation which they heretofore received, in proportion to the time they shall be so employed. The governor shall have power to fill vacancies by commissions, to expire as soon as elections or appointments can be made to such officers by authority of this constitution.

§ 5. All laws and parts of laws, now in force in the Alabama Territory, which are not repugnant to the provisions of this constitution,

shall continue and remain in force as the laws of this state, until they expire by their own limitation, or shall be altered, or repealed, by the legislature thereof.

PART II.

RELATING TO THE SECESSION OF THE STATE OF ALABAMA FROM THE GOVERNMENT OF THE UNITED STATES.

CHAPTER I.

SECTION 1. *Be it declared and ordained by the people of the state of Alabama in convention assembled,* That the state of Alabama now withdraws, and is hereby withdrawn, from the Union known as "the United States of America," and henceforth ceases to be one of said United States, and is, and of right ought to be, a *sovereign and independent state.*

SEC. 2. *Be it further declared and ordained by the people of the state of Alabama in convention assembled,* That all the powers over the territory of said state, and over the people thereof, heretofore delegated to the government of the United States of America, be, and they are hereby, withdrawn from said government, and are hereby resumed and vested in the people of the state of Alabama.

SEC. 3. *Be it ordained by the people of Alabama in convention assembled,* That the constitution framed and adopted on the eleventh day of March, 1861, by the deputies from the states of South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas, in convention assembled, at Montgomery, Alabama, be, and the same is hereby, APPROVED, RATIFIED and ADOPTED, as the Federal Constitution for the people of Alabama.

CHAPTER II.

SECTION 1. No law enacted by the authority of the state of Alabama, in force on the eleventh day of January, A.D. 1861, and consistent with the constitution of this state, and not inconsistent with the ordinances of this convention, is affected by the ordinance known as the ordinance of secession, adopted on said day, and entitled "An ordinance to dissolve the union between the state of Alabama and other states, united under the compact styled the constitution of the United States."

SEC. 2. No office, civil or military, created by this state, or under the authority of its laws, in force on the eleventh day of January, A.D. 1861, and no officer lawfully exercising the powers or duties of such office, is affected by said ordinance of secession, except the offices of the members of the house of representatives, and of the senators of the congress of the United States of America, and these are abrogated.

SEC. 3. No offense against the laws of this state, committed before or since the adoption of said ordinance of secession, is affected by said

ordinance, and no offender against said laws, is relieved or discharged from the consequence of such offense by said ordinance; and no amercement, fine, penalty, forfeiture, escheat, bond, or recognizance, accruing or enuring, in whole or in part, to the state of Alabama, whether in action or in judgment, is affected by said ordinance.

SEC. 4. No bond issued by authority of the laws of this state, or bills or coin lawfully used as money in this state, and no bond, obligation, debt or duty, due or owing to this state, or enuring, in whole or in part, to this state, before or since the adoption of said ordinance, is affected thereby.

SEC. 5. No process or proceeding of any court of this state is affected by said ordinance of secession.

SEC. 6. No right, title, franchise, easement, license or privilege given, granted or conferred to, or upon any person or body corporate, under and by authority of the laws of this state, and no right of possession or property, action or prosecution, title, claim, contract, agreement, obligation, debt or duty, of any person or body corporate, is affected by said ordinance of secession, unless the same is inconsistent with said ordinance, or is affected by some other ordinance of this convention.

SEC. 7. No rights acquired, or vested in any body corporate under the constitution of the United States, or under any act of congress passed in pursuance thereof, or under any law of this state, and not incompatible with said ordinance of secession, is affected by said ordinance.

CHAPTER III.

RELATING TO THE CHANGES IN THE CONSTITUTION OF ALABAMA.

SECTION 1. *Be it ordained by the people of the state of Alabama in convention assembled,* That no change made in the constitution of the state of Alabama, by this convention, shall have the effect to divest any right, title, or legal trust existing at the time of making such change. But all such changes shall have a prospective and not a retrospective effect, unless otherwise declared in the change itself.

SEC. 2. *Be it ordained by the people of Alabama in convention assembled,* That an ordinance adopted by the people of this state, in convention, at Huntsville, on the second day of August, one thousand eight hundred and nineteen, disclaiming forever all right to the waste or unappropriated lands lying within this state, is hereby repealed; but the navigable waters of this state shall remain forever free to the citizens of this state, and of such states as may unite with the state of Alabama, in a Southern slave-holding confederacy. But no right heretofore obtained, by any person or corporation, to erect a bridge, or bridges, across the navigable waters of this state, shall be affected by this ordinance; *Provided,* that the navigation of such rivers be not obstructed thereby.

MODE OF AMENDING AND REVISING THE CONSTITUTION.

The general assembly, whenever two-thirds of each house shall deem it necessary, may propose amendments to this constitution, which proposed amendments shall be duly published in print, at least three months before the next general election of representatives, for the consideration of the people, and it shall be the duty of the several returning officers, at the next general election which shall be held for representatives, to open a poll for, and make a return to the secretary of state for the time being, of the names of all those voting for representatives who have voted on such proposed amendments, and if thereupon it shall appear that a majority of all the citizens of this state, voting for representatives, have voted in favor of such proposed amendments, and two-thirds of each house of the next general assembly shall, after such an election, and before another, ratify the same amendments by yeas and nays, they shall be valid, to all intents and purposes, as parts of this constitution; *Provided*, that the said proposed amendments shall, at each of the said sessions, have been read three times, on three several days, in each house; *Provided further*, that a convention of the people of the state may be called by a vote of two-thirds of each branch of the general assembly, under such rules and regulations as the legislature may prescribe, to amend the constitution, or for any other purpose.

Adopted by the people of Alabama, by the unanimous vote of their delegates in convention assembled, at the capitol, in the city of Montgomery, on this the twentieth day of March, in the year of our Lord, one thousand eight hundred and sixty-one, and of the Confederate States of America the first year.

WILLIAM M. BROOKS,

President of the Convention of the People of the State of Alabama.

Attest—A. G. HORN,

Secretary of Convention.

CONSTITUTION OF THE STATE OF ALABAMA—1865.

AS REVISED AND AMENDED BY THE CONVENTION ASSEMBLED AT MONTGOMERY, ON THE TWELFTH DAY OF DECEMBER, A.D. 1865.

PREAMBLE.

WE, the people of the state of Alabama, by our representatives in convention assembled, in order to establish justice, ensure domestic tranquillity, provide for the common defense, promote the general welfare, and secure to ourselves and to our posterity the rights of life, liberty, and property; invoking the favor and guidance of Almighty God, do ordain and establish the following constitution and form of government for the state of Alabama—that is to say:

ARTICLE I.

DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare—

§ 1. That no man, and no set of men, are entitled to exclusive separate public emoluments or privileges, but in consideration of public services.

§ 2. That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and that, therefore, they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government, in such manner as they may deem expedient.

§ 3. That no person within this state shall, upon any pretense whatever, be deprived of the inestimable privilege of worshiping God in the manner most agreeable to his own conscience; nor be hurt, molested, or restrained in his religious profession, sentiments, or persuasions, provided he does not disturb others in their religious worship.

§ 4. That no religion shall be established by law; that no preference shall be given by law to any religious sect, society, denomination, or mode of worship; that no one shall be compelled by law to attend any place of worship, nor to pay any tithes, taxes, or other rate, for building or repairing any place of worship, or for maintaining any minister or ministry; that no religious test shall be required as a qualification to any office or public trust under this state; and that the civil rights,

privileges, and capacities of any citizen shall not be in any manner affected by his religious principles.

§ 5. That every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

§ 6. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures or searches; and no warrant shall issue to search any place, or to seize any person or thing, without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

§ 7. That in all criminal prosecutions, the accused has a right to be heard by himself and counsel; to demand the nature and cause of the accusation, and have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and, in all prosecutions, by indictment or information, a speedy public trial by an impartial jury of the county or district in which the offense was committed; and that he shall not be compelled to give evidence against himself, nor be deprived of his life, liberty, or property, but by due course of law.

§ 8. That no person shall be accused, arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and that no person shall be punished, but by virtue of a law, established and promulgated prior to the offense, and legally applied.

§ 9. That no person shall, for any indictable offense, be proceeded against criminally, by information; except in cases arising in the land and naval forces, or the militia when in actual service, or, by leave of the court, for oppression or misdemeanor in office; *Provided*, that in cases of petit larceny, assault and battery, affray, unlawful assemblies, vagrancy, and other misdemeanors, the general assembly may by law dispense with a grand jury, and authorize such prosecutions before justices of the peace, or such other inferior courts as may be by law established; and the proceedings in such cases shall be regulated by law.

§ 10. That no person shall, for the same offense, be twice put in jeopardy of life or limb.

§ 11. That no person shall be debarred from prosecuting or defending, before any tribunal in this state, by himself, or counsel, any civil cause to which he is a party.

§ 12. That the right of trial by jury shall remain inviolate.

§ 13. That in prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and that in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court.

§ 14. That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person or reputation, shall have a

remedy by due course of law, and right and justice administered, without sale, denial, or delay.

§ 15. That suits may be brought against the state, in such manner, and in such courts, as may be by law provided.

§ 16. That excessive fines shall not be imposed, nor cruel punishments be inflicted.

§ 17. That all persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident, or the presumption great; and that excessive bail shall not, in any case, be required.

§ 18. That the privilege of the writ of "*habeas corpus*" shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

§ 19. That treason against the state shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

§ 20. That no person shall be attainted of treason by the general assembly; and that no conviction shall work corruption of blood, nor forfeiture of estate.

§ 21. That the estates of suicides shall descend or vest as in cases of natural death; and that, if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

§ 22. That the person of a debtor, where there is not strong presumption of fraud, shall not be detained in prison, after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

§ 23. That no power of suspending laws shall be exercised, except by the general assembly, or its authority.

§ 24. That no *ex post facto law*, nor any law impairing the obligation of contracts, shall be made.

§ 25. That private property shall not be taken or applied for public use, unless just compensation be made therefor; nor shall private property be taken for private use, or for the use of corporations other than municipal, without the consent of the owner; *Provided, however*, that laws may be made securing to persons or corporations the right of way over the lands of other persons or corporations, and, for works of internal improvement, the right to establish depots, stations, and turnouts; but just compensation shall, in such cases, be first made to the owner.

§ 26. That the citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

§ 27. That every citizen has a right to bear arms in defense of himself and the state.

§ 28. That no person, who conscientiously scruples to bear arms,

shall be compelled to do so, but may pay an equivalent for personal service.

§ 29. That no standing army shall be kept up without the consent of the general assembly; and, in that case, no appropriation for its support shall be for a longer term than one year; and that the military shall, in all cases, and at all times, be in strict subordination to the civil power.

§ 30. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

§ 31. That no title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this state; and that no office shall be created, the appointment of which shall be for a longer term than during good behavior.

§ 32. That emigration from this state shall not be prohibited, and that no citizen shall be exiled.

§ 33. That temporary absence from the state shall not cause a forfeiture of residence once obtained.

§ 34. That hereafter there shall be in this state neither slavery nor involuntary servitude, otherwise than for the punishment of crime, whereof the party shall have been duly convicted.

§ 35. That the right of suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influence from power, bribery, tumult, or other improper conduct.

§ 36. This enumeration of certain rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachments on the rights hereby retained, or any transgression of any of the high powers by this constitution delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or to the following provision, shall be void.

ARTICLE II.

STATE BOUNDARIES AND COUNTIES.

§ 1. The boundaries of this state are established and declared to be as follows—that is to say: Beginning at the point where the thirty-first degree of north latitude crosses the Perdido river; thence east, to the western boundary line of the state of Georgia; thence along said line to the southern boundary line of the state of Tennessee; thence west, along the southern boundary line of the state of Tennessee, crossing the Tennessee river, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear creek; thence by a direct line to the northwest corner of Washington county, in this state, as originally formed; thence southerly, along the line of the state of Mississippi, to the Gulf of Mexico; thence eastwardly,

including all islands within six leagues of the shore, to the Perdido river; and thence up the said river, to the beginning.

§ 2. The general assembly may, by a vote of two-thirds of both branches thereof, arrange and designate boundaries for the several counties of this state, which boundaries shall not be altered except by a like vote; but no new county shall be hereafter formed of less extent than six hundred square miles, nor shall any existing county be reduced to a less extent than six hundred square miles; and no county shall be formed not containing a sufficient number of inhabitants to entitle it to one representative under the existing ratio of representation, nor unless the counties from which it is taken shall be left with the required number entitling them to separate representation.

ARTICLE III.

DISTRIBUTION OF POWERS OF GOVERNMENT.

§ 1. The powers of the government of the state of Alabama shall be divided into three distinct departments; each of which shall be confined to a separate body of magistracy; to wit: those which are legislative to one; those which are executive to another; and those which are judicial to another.

§ 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

§ 1. The legislative power of this state shall be vested in two distinct branches; the one to be styled the senate, the other the house of representatives, and both together "The General Assembly of the State of Alabama."

§ 2. All laws shall be passed by original bill; and their style shall be, "Be it enacted by the senate and house of representatives of the state of Alabama, in general assembly convened." Each law shall embrace but one subject, which shall be described in the title; and no law, or any section of any law, shall be revised or amended by reference only to its title and number, but the law or section revised or amended shall itself be set forth at full length.

§ 3. Members of both houses of the general assembly shall be chosen by the qualified electors; and the regulations for holding such elections shall, as to time, place, and manner, be the same for each house, and shall be prescribed by law. After the special election to be held on the first Monday in November, 1865, such elections shall, until otherwise directed by law, take place on the first Monday in August.

§ 4. No person who holds any lucrative office under the United States, or under this state, or under any other state or government

(except postmasters, officers in the militia, to whose office no annual salary is attached, justices of the peace, members of the court of county commissioners, notaries public, and commissioners of deeds excepted); no person who has been convicted of having given or offered any bribe to procure his election; no person who has been convicted of bribery, forgery, perjury, or other high crime or misdemeanor which may be by law declared to disqualify him; and no person who has been a collector or holder of public moneys, and has failed to account for and pay over into the treasury all sums for which he may be by law accountable, shall be eligible to the general assembly.

§ 5. Representatives shall be chosen for a term of two years; and no person shall be a representative who is not a white man, twenty-one years of age, a citizen of the United States, and who has not been an inhabitant of this state for the two years next preceding the election, and for the last year thereof a resident of the county for which he is chosen.

§ 6. The house of representatives shall consist of not more than one hundred members, who shall be apportioned by the general assembly among the several counties of the state according to the number of white inhabitants in them respectively; and, to this end, the general assembly shall cause an enumeration of all the inhabitants of the state to be made in the year one thousand eight hundred and sixty-six, and again in the year one thousand eight hundred and seventy-five, and every ten years thereafter, and shall make an apportionment of the representatives among the several counties at the first regular session after each enumeration; which apportionment, when made, shall not be subject to alteration, until after the next census shall have been taken; *Provided*, that each county shall be entitled to at least one representative; *Provided further*, that where two or more adjoining counties shall each have a residuum or fraction over and above the ratio then fixed by law, which fractions, when added together, equal or exceed that ratio, in that case, the county having the largest fraction shall be entitled to one additional representative.

§ 7. The whole number of senators shall be not less than one-fourth, nor more than one-third, of the whole number of representatives; and it shall be the duty of the general assembly, at its first session after the making of each enumeration, as provided by the last preceding section, to fix by law the number of senators, and to divide the state into as many senatorial districts as there are senators; which districts shall be as nearly equal to each other as may be in the number of white inhabitants, and each shall be entitled to one senator, and no more; *Provided*, that in the formation of said districts, no county shall be divided, and no two or more counties, which are separated entirely by a county belonging to another district, shall be joined into one district; *And provided further*, that the senatorial districts, when formed, shall not be changed until after the next census shall have been taken.

§ 8. No person shall be a senator, who is not a white man, at least

twenty-seven years of age, a citizen of the United States, and who has not been an inhabitant of this state for two years next preceding the election, and for the last year thereof a resident in the district for which he is chosen.

§ 9. Senators shall be chosen for the term of four years; yet at the first general election after each new apportionment, elections shall be held anew in all the senatorial districts; and the senators elected, when convened at the next ensuing session of the general assembly, shall be divided by lot into two classes, as nearly equal to each other as may be; the seats of the senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years from the day of election, so that (except as above provided) one-half of the senators may be chosen biennially.

§ 10. The general assembly shall meet annually, on such day as may be by law prescribed; and shall not remain in session longer than thirty days, unless by a vote of two-thirds of each house.

§ 11. At the first regular or called session after each general election for representatives, the senate shall choose a president and its other officers, and the house of representatives shall choose a speaker and its other officers; and the officers so chosen shall be entitled to hold their respective offices until the next general election for representatives. Each house shall judge of the qualifications, elections and returns of its own members; but a contested election shall be determined in such manner as may be by law provided.

§ 12. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

§ 13. Each house may determine the rules of its own proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member; but not a second time for the same offense; and shall have all other powers necessary for a branch of the legislature of a free and independent state.

§ 14. Each house may, during the session, punish by imprisonment any person, not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings; *Provided*, that such imprisonment shall not, at any one time, exceed forty-eight hours.

§ 15. Each house shall keep a journal of its own proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals. Any member of either house shall have leave to dissent from, and protest against, any act or resolution which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journals.

§ 16. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

§ 17. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

§ 18. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of a law until it be read in each house on three several days, and free discussion thereon be allowed; unless, in case of urgency, four-fifths of the house in which the bill may be depending, shall deem it expedient to dispense with this rule; and every bill, having passed both houses, shall be signed by the speaker and president of the respective houses; *Provided*, that all bills for raising revenue shall originate in the house of representatives, but may be amended or rejected by the senate as other bills.

§ 19. In all elections by the general assembly the members shall vote *viva voce*, and the votes shall be entered on the journal.

§ 20. No senator or representative shall, during the term for which he was elected, be elected or appointed to any civil office of profit under the state, except such offices as may be filled by elections by the people.

§ 21. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; allowing one day for every twenty miles such member may reside from the place at which the general assembly is convened; nor shall any member be liable to answer for anything spoken in debate in either house, in any court or place elsewhere.

§ 22. Each member of the general assembly shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

§ 23. When vacancies happen in either house, the governor, or the person exercising the power of governor for the time being, shall issue writs of election to fill such vacancies.

§ 24. The house of representatives shall have the sole power of preferring impeachments; all impeachments shall be tried by the senate; the senators, when sitting for that purpose, shall be on oath or affirmation; and no person shall be convicted under an impeachment, without the concurrence of two-thirds of the senators present.

§ 25. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties, who may choose that summary mode of adjustment.

§ 26. It shall be the duty of the general assembly, from time to time, as circumstances may require, to frame and adopt a penal code, founded on principles of reformation.

§ 27. It shall also be the duty of the general assembly, within five

years after the adoption of this constitution, and within every subsequent period of ten years, to make provision by law for the revision, digesting and promulgation of all the public statutes of this state, both civil and criminal.

§ 28. The general assembly shall have power to pass such penal laws as they may deem expedient to suppress the evil practice of duelling, extending to disqualification to hold office.

§ 29. It shall be the duty of the general assembly to regulate by law the cases in which deductions shall be made from the salaries of public officers, for neglect of duty in their official capacities, and the amount of such deductions.

§ 30. Divorces from the bonds of matrimony shall not be granted, but in the cases by law provided for, and by suit in chancery; but decrees in chancery for divorce shall be final, unless appealed from, in the manner prescribed by law, within three months from the date of the enrollment thereof.

§ 31. It shall be the duty of the general assembly, at its next session, and from time to time thereafter as it may deem proper, to enact laws prohibiting the intermarriage of white persons with negroes, or with persons of mixed blood, declaring such marriages null and void *ab initio*, and making the parties to any such marriage subject to criminal prosecutions, with such penalties as may be by law prescribed.

§ 32. The general assembly shall make provision by law for obtaining correct knowledge of the several objects proper for improvement in relation to the roads and navigable waters in this state, and for making a systematic and economical application of the means appropriated to those objects.

§ 33. The general assembly shall, from time to time, enact necessary and proper laws for the encouragement of schools and the means of education; shall take proper measures to preserve from waste or damage such lands as have been or may be granted by the United States for the use of schools in each township in this state, and apply the funds which may be raised from such lands in strict conformity with the object of such grant; shall take like measures for the improvement of such lands as have been or may hereafter be granted by the United States to this state for the support of a seminary of learning; and the money which may be raised from such lands, by rent, lease, or sale, or from any other quarter, for the purpose aforesaid, shall be and forever remain a fund for the exclusive support of a state university for the protection of the arts, literature, and the sciences; and it shall be the duty of the general assembly to provide by law effectual means for the improvement and permanent security of the funds of such institution.

§ 34. Not more than one bank shall be established, nor more than one bank charter be renewed, at any one session of the general assembly; nor shall any bank be established, nor any bank charter be renewed without the concurrence of two-thirds of each house of the

general assembly, and in conformity with the following rules—that is to say:

Rule 1. The stockholders shall be respectively liable for the debts of the bank in proportion to the amount of their stock.

Rule 2. The remedy for the collection of debts shall be reciprocal for and against the bank.

Rule 3. No bank shall commence operations, until one-half of the capital stock subscribed for be actually paid in gold and silver; which amount shall, in no case, be less than one hundred thousand dollars.

Rule 4. If any bank shall neglect or refuse to pay, on demand, any bill, note, or obligation issued by the corporation, according to the promise therein expressed, the holder of such bill, note, or obligation, shall be entitled to receive and recover interest thereon until paid, or until specie payments are resumed by the bank, at the rate of twelve per centum per annum from the date of such demand; unless the general assembly shall, by a vote of two-thirds of each house thereof, sanction such suspension of specie payments.

Rule 5. Whenever any bank suspends specie payments, its charter is thereby forfeited; unless such suspension shall be sanctioned and legalized, at the next session of the general assembly, by a vote of two-thirds of each house thereof.

§ 35. The general assembly shall provide by law for organizing and disciplining the militia of this state, in such manner as they may deem expedient, not incompatible with the constitution and laws of the United States; shall fix the rank of all staff-officers, and prescribe the manner in which all officers shall be appointed or elected; *Provided*, that no other officers than adjutants-general, and quartermasters-general shall be appointed by the general assembly; *And provided further*, that majors-general shall appoint their aids and all division and staff-officers, brigadiers-general shall appoint their aids and all other brigade staff-officers, and colonels shall appoint their regimental staff-officers.

§ 36. It shall be the duty of the general assembly, at its next session, and from time to time thereafter, to enact such laws as will protect the freedmen of this state in the full enjoyment of all their rights of person and property, and guard them and the state against any evils that may arise from their sudden emancipation.

§ 37. No money shall be drawn from the treasury, but in pursuance of an appropriation made by law; and a regular statement and account of the receipts and expenditures of all public moneys shall be published annually, in such manner as may be by law directed.

§ 38. No special law shall be enacted for the benefit of individuals or corporations, in cases which are provided for by a general law, or where the relief sought can be given by any court of this state.

§ 39. All lands liable to taxation in this state, shall be taxed in proportion to their value.

§ 40. No power to levy taxes shall be delegated to individuals or private corporations.

§ 41. The general assembly shall not borrow or raise money on the credit of the state (except for purposes of military defense against actual or threatened invasion, rebellion, or insurrection), without the concurrence of two-thirds of the members of each house; nor shall the debts or liabilities of any corporation, person or persons, or other state, be guaranteed, nor any money, credit, or other thing, be loaned or given away, except by a like concurrence of each house; and the votes shall in each case, be taken by yeas and nays, and be entered on the journals.

§ 42. In the event of the annexation of any foreign territory to this state, the general assembly shall enact laws, extending to the inhabitants of the acquired territory all the rights and privileges which may be required by the terms of the acquisition; anything in this constitution to the contrary notwithstanding.

ARTICLE V.

EXECUTIVE DEPARTMENT.

§ 1. The supreme executive power of this state shall be vested in a chief magistrate, who shall be styled the "Governor of the State of Alabama."

§ 2. The governor shall be elected by the qualified electors at the time and places at which they shall respectively vote for representatives.

§ 3. The returns of every election for governor shall be sealed up, and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall, during the first week of the session, open and publish them in the presence of both houses of the general assembly. The person having the highest number of votes shall be governor, but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of both houses. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

§ 4. The governor shall hold his office for the term of two years from the time of his installation, and until his successor shall be qualified, but shall not be eligible for more than four years in any term of six years; he shall be at least thirty years of age, a native citizen of the United States, and shall have resided in this state at least four years next preceding the day of his election.

§ 5. He shall, at stated times, receive a compensation for his services, which shall not be either increased or diminished during the term for which he shall have been elected.

§ 6. He shall always reside, during the session of the general

assembly, at the place where their session may be held, and at other times wherever, in their opinion, the public good may require.

§ 7. He shall be commander-in-chief of the army and navy of this state, and of the militia thereof, except when they shall be called into the service of the United States; and when acting in the service of the United States, the general assembly shall fix his rank.

§ 8. He shall have power to call forth the militia to execute the laws of the state, to suppress insurrections, and to repel invasions; and shall appoint his aides-de-camp.

§ 9. He may require from the secretary of state, the comptroller of public accounts, and the state treasurer information in writing on any subject relating to the duties of their respective offices.

§ 10. He may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if, since their last adjournment, that shall have become dangerous from an enemy, or from contagious disorders; and in case of disagreement between the two houses, with respect to the time of adjournment, he may adjourn them to such time as he may think proper, not beyond the day of the next annual meeting of the general assembly.

§ 11. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient.

§ 12. He shall take care that the laws are faithfully executed.

§ 13. In all criminal and penal cases, except those of treason and impeachment, he shall have power to grant reprieves and pardons, and to remit fines and forfeitures, under such rules and regulations as may be prescribed by law; and in cases of treason he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons; and in the recess of the senate, he may respite the sentence until the end of the next session of the general assembly.

§ 14. There shall be a great seal of the state, which shall be kept and used by the governor officially; and the seal now in use shall continue to be the great seal of the state, until another shall have been adopted by the general assembly.

§ 15. Vacancies that may happen in offices, the appointment of which is vested in the general assembly, shall, during the recess of the general assembly, be filled by the governor, by granting commissions which shall expire at the end of the next session.

§ 16. Every bill which shall have passed both houses of the general assembly shall be presented to the governor; if he approves, he shall sign it, but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon the journals, and proceed to reconsider it; if, after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by whom it shall likewise be reconsidered; and if approved by a

majority of the whole number elected to that house, it shall become a law; but in such cases, the votes of both houses shall be determined by yeas and nays; and the names of the members voting for or against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within five days, Sundays excepted, after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall not be a law.

§ 17. Every order, resolution, or vote, to which the concurrence of both houses may be necessary (except on questions of adjournment, and for bringing on elections by the two houses), shall be presented to the governor, and, before it shall take effect, be approved by him, or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the cases of a bill.

§ 18. No person shall at one and the same time, hold the office of governor, and any other office or commission, civil or military, either in this state, the United States, or any other state or government.

§ 19. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the state, the president of the senate shall exercise all the power and authority appertaining to the office of governor, until the time appointed by the constitution for the election of governor shall arrive (unless the general assembly shall provide by law for the election of a governor to fill such vacancy), or until the governor absent or impeached shall return or be acquitted; and if, during such vacancy in the office of governor, the president of the senate shall be impeached, removed from office, refuse to qualify, die, resign, or be absent from the state, the speaker of the house of representatives shall, in like manner, administer the government.

§ 20. The president of the senate and speaker of the house of representatives, shall, during the time they respectively administer the government, receive the same compensation which the governor would have received if he had been employed in the duties of his office.

ARTICLE VI.

JUDICIAL DEPARTMENT.

§ 1. The judicial power of this state shall be vested in one supreme court, circuit courts to be held in each county in the state, and such inferior courts of law and equity, to consist of not more than five members, as the general assembly may, from time to time, direct, ordain and establish.

§ 2. Except in cases otherwise directed in this constitution, the supreme court shall have appellate jurisdiction only, which shall be coextensive with the state, under such restrictions and regulations, not repugnant to this constitution, as may, from time to time, be pre-

scribed by law; *Provided*, that said court shall have power to issue writs of injunction, mandamus, *quo warranto*, *habeas corpus*, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdictions.

§ 3. The supreme court shall be holden at the seat of government; but if that shall have become dangerous from an enemy, or from disease, may adjourn to a different place.

§ 4. The state shall be divided into convenient circuits, each of which shall contain not less than three, nor more than six counties; and for each circuit there shall be appointed a judge, who shall, after his appointment, reside in the circuit for which he may be appointed.

§ 5. The circuit court shall have original jurisdiction in all matters, civil and criminal, within this state, not otherwise excepted in this constitution; but in civil cases, only when the matter or sum in controversy exceeds fifty dollars.

§ 6. A circuit court shall be held in each county in the state at least twice in every year, and the judges of the several circuits may hold courts for each other, when they may deem it expedient, and shall do so when directed by law.

§ 7. The general assembly shall have power to establish a court or courts of chancery, with original and appellate equity jurisdiction; *Provided*, that the judges of the several circuit courts shall have power to issue writs of injunction, returnable into the courts of chancery.

§ 8. The general assembly shall have power to establish, in each county within this state, a court of probate, for the granting of letters testamentary and of administration, and for orphans' business.

§ 9. A competent number of justices of the peace shall be appointed in and for each county, in such mode and for such term of office as the general assembly may by law direct; whose jurisdiction in civil cases shall be limited to causes in which the amount in controversy shall not exceed one hundred dollars; and in all cases tried by a justice of the peace, right of appeal shall be secured, under such rules and regulations as may be prescribed by law.

§ 10. The judges of the supreme court, circuit courts, and courts of chancery, shall, at stated times, receive for their services a compensation, which shall be fixed by law, and shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any office of profit or trust under this state, the United States, or any other power.

§ 11. Judges of the supreme court and chancellors shall be elected by joint vote of both houses of the general assembly; judges of the circuit and probate courts, and of such other inferior courts as may be by law established, shall be elected by the qualified electors of the respective counties, cities, or districts, for which such courts may be established. Elections of judges by the people shall be held on the first Monday in May, or such other day as may be by law prescribed,

not within a less period than two months of the day fixed by law for the election of governor, members of the general assembly, or members of congress. Vacancies in the office of circuit judge, probate judge, or judge of any other inferior court established by law, shall be filled by the governor; and the person appointed by him shall hold office until the next election day by law appointed for the election of judges, and until his successor shall have been elected and qualified.

§ 12. The judges of the several courts of this state shall hold their offices for the term of six years; and the right of any judge to hold his office for the full term hereby prescribed, shall not be affected by any change hereafter made by law in any circuit or district, or in the mode or time of election; but for any willful neglect of duty, or any other reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any judge, on the address of two-thirds of each house of the general assembly; *Provided*, that the cause or causes for which said removal may be required, shall be stated at length in such address, and entered on the journals of each house; *And provided further*, that the judge intended to be removed shall be notified of such cause or causes, and shall be admitted to a hearing in his own defense, before any vote for such address; and in all such cases, the vote shall be taken by yeas and nays, and be entered on the journals of each house respectively.

§ 13. No person who shall have arrived at the age of seventy years shall be appointed or elected to, or shall continue in the office of judge in this state.

§ 14. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the state; as also the judges of the circuit court within their respective circuits, and judges of the inferior courts within their respective counties.

§ 15. Clerks of the circuit courts, and of such inferior courts as may be by law established, shall be elected by the qualified electors in each county, for the term of four years; and may be removed from office for such causes, and in such manner, as may be by law prescribed. Vacancies in the office of clerk shall be filled by the judge of the court, and the person so appointed shall hold office until the next general election, and until his successor is elected and qualified; *Provided*, that the general assembly shall have power to annex the duties of clerk to the office of judge of any inferior court by law established.

§ 16. The style of all process shall be "The State of Alabama," and all prosecutions shall be carried on in the name and by the authority of the state of Alabama, and shall conclude "against the peace and dignity of the same."

ARTICLE VII.

STATE AND COUNTY OFFICERS.

§ 1. A secretary of state, a comptroller of public accounts, and a state treasurer shall be elected by a joint vote of both houses of the general assembly, each of whom shall continue in office during the term of two years, shall perform all the duties that may be required of him by law, and receive such compensation as may be by law provided.

§ 2. An attorney-general, and as many solicitors as there are judicial circuits in this state, shall be elected by a joint vote of both houses of the general assembly, each of whom shall hold his office for the term of four years, shall perform all the duties that may be required of him by law, and shall receive such compensation for his services as may be by law provided, which shall not be diminished during his continuance in office.

§ 3. A sheriff shall be elected in each county by the qualified electors thereof, who shall hold his office for the term of three years, unless sooner removed, and shall not be eligible to serve, either as principal or deputy, for any two successive terms. Vacancies in the office of sheriff shall be filled by the governor, as in other cases; and the person so appointed shall continue in office until the next general election in the county for sheriff as by law provided.

§ 4. No member of congress, nor any person who holds any office of profit or trust under the United States (except postmasters), or any other state or government; nor any person who shall have been convicted of having given or offered any bribe to procure his election or appointment; nor any person who shall have been convicted of bribery, forgery, perjury, or other high crime or misdemeanor which may be by law declared to disqualify him, shall be eligible to any office of profit or trust under the state.

§ 5. All commissions shall be in the name and by the authority of the state of Alabama; shall be sealed with the great seal of the state, signed by the governor, and attested by the secretary of state.

§ 6. All civil officers of this state, legislative, executive, and judicial, before they enter upon the execution of the duties of their respective offices, shall take the following oath: "I solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States, and the constitution of the state of Alabama, so long as I continue a citizen thereof; and that I will faithfully discharge, to the best of my abilities, the duties of the office of ——. So help me God."

§ 7. All civil officers of the state, whether elected by the people, or by the general assembly, or appointed by the governor, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust, or profit, under the

state; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment according to law.

ARTICLE VIII.

ELECTIONS BY THE PEOPLE.

§ 1. Every white male person, of the age of twenty-one years and upwards, who shall be a citizen of the United States, and shall have resided in this state one year next preceding the election, and the last three months thereof in the county in which he offers to vote, shall be deemed a qualified elector; *Provided*, that no soldier, seaman, or marine, in the regular army or navy of the United States, and no person who shall have been convicted of bribery, forgery, perjury, or other high crime or misdemeanor which may be by law declared to disqualify him, shall be entitled to vote at any election in this state.

§ 2. In all elections by the people, the electors shall vote by ballot, until otherwise directed by law.

§ 3. Except in cases of treason, felony, or breach of the peace, electors shall be privileged from arrest during their attendance at elections, and in going to and returning from the same.

§ 4. Returns of elections for all civil officers elected by the people, who are to be commissioned by the governor, and also for members of the general assembly, shall be made to the secretary of state.

ARTICLE IX.

AMENDMENT AND REVISION OF THE CONSTITUTION.

§ 1. The general assembly may, whenever two-thirds of each house shall deem it necessary, propose amendments to this constitution; which proposed amendments shall be duly published in print (in such manner as the general assembly may direct), at least three months before the next general election for representatives, for the consideration of the people; and it shall be the duty of the several returning officers, at the next ensuing general election for representatives, to open a poll for the vote of the qualified electors on the proposed amendments, and to make a return of said vote to the secretary of state; and if it shall thereupon appear that a majority of all the qualified electors of the state, who voted for representatives, voted in favor of the proposed amendments, and two-thirds of each house of the next general assembly, before another election, shall ratify said amendments, each house voting by yeas and nays, said amendments shall be valid, to all intents and purposes, as parts of this constitution; *Provided*, that said proposed amendments shall, at each of said sessions of the general assembly, have been read three times, on three several days, in each house.

§ 2. After the expiration of twelve months from the adoption of this constitution, no convention shall be held for the purpose of alter-

ing or amending the constitution of this state, unless the question of convention or no convention shall be first submitted to a vote of the qualified electors of the state, and approved by a majority of the electors voting at said election.

Adopted by the convention, by the unanimous vote of all the delegates present, at the state capitol, in the city of Montgomery, on this the thirtieth day of September, in the year of our Lord one thousand eight hundred and sixty-five, and of the independence of the United States the ninetieth year.

BENJ. FITZPATRICK,
President of Convention.

Attest—Wm. H. OGBOURNE,
Secretary of Convention.

CONSTITUTION OF THE STATE OF ALABAMA—1868.

PREAMBLE.

WE, the people of the state of Alabama, by our representatives in convention assembled, in order to establish justice, ensure domestic tranquillity, provide for the common defense, promote the general welfare, and secure to ourselves and to our posterity the rights of life, liberty, and property; invoking the favor and guidance of Almighty God, do ordain and establish the following constitution and form of government for the state of Alabama:

ARTICLE I.

DECLARATION OF RIGHTS.

That the great, general, and essential principles of liberty and free government may be recognized and established, we declare—

§ 1. That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness.

§ 2. That all persons resident in this state, born in the United States, or naturalized, or who shall have legally declared their intention to become citizens of the United States, are hereby declared citizens of the state of Alabama, possessing equal civil and political rights and public privileges.

§ 3. That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and that, therefore, they have at all times an inherent right to change their form of government, in such manner as they may deem expedient.

§ 4. That no person shall be deprived of the right to worship God according to the dictates of his own conscience.

§ 5. That no religion shall be established by law.

§ 6. That any citizen may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

§ 7. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures or searches; and that no warrant shall issue to search any place, or to seize any person or thing, without probable cause, supported by oath or affirmation.

§ 8. That in all criminal prosecutions, the accused has a right to be heard by himself and counsel, or either; to demand the nature and

cause of the accusation; to have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and, in all prosecutions, by indictment or information, a speedy public trial by an impartial jury of the county or district in which the offense was committed; and that he shall not be compelled to give evidence against himself, nor be deprived of his life, liberty, or property, but by due process of law.

§ 9. That no person shall be accused, or arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and that no person shall be punished, but by virtue of a law, established and promulgated prior to the offense, and legally applied.

§ 10. That no person shall, for any indictable offense, be proceeded against criminally, by information; except in cases arising in the land and naval service, or in the militia when in actual service, or, by leave of the court, for oppressions or misdemeanor in office; *Provided*, that in cases of petit larceny, assault, assault and battery, affray, unlawful assemblies, vagrancy, and other misdemeanors, the general assembly may by law dispense with a grand jury, and authorize such prosecutions and proceedings before justices of the peace, or such other inferior courts as may be by law established.

§ 11. That no person shall, for the same offense, be twice put in jeopardy of life or limb.

§ 12. That no person shall be debarred from prosecuting or defending, before any tribunal in this state, by himself, or counsel, any civil cause to which he is a party.

§ 13. That the right of trial by jury shall remain inviolate.

§ 14. That in prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and that in all indictments for libel, the jury shall have the right to determine the law and the facts, under the direction of the court.

§ 15. That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person or reputation, shall have a remedy by due process of law, and right and justice shall be administered, without sale, denial, or delay.

§ 16. That suits may be brought against the state, in such manner, and in such courts as may be by law provided.

§ 17. That excessive fines shall not be imposed, or cruel punishment inflicted.

§ 18. That all persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident, or the presumption great. Excessive bail shall not, in any case, be required.

§ 19. The privilege of writ of *habeas corpus* shall not be sus-

pended, except when necessary for public safety in times of rebellion or invasion.

§ 20. That treason against the state shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or his own confession in open court.

§ 21. That no person shall be attainted of treason by the general assembly; and that no conviction shall work corruption of blood, or forfeiture of estate.

§ 22. That no person shall be imprisoned for debt.

§ 23. That no power of suspending laws shall be exercised, except by the general assembly, or by its authority.

§ 24. That no *ex post facto* law, or any law impairing the obligation of contracts, shall be made.

§ 25. That private property shall not be taken or applied for public use, unless just compensation be made therefor; nor shall private property be taken for private use, or for the use of corporations, other than municipal, without the consent of the owner; *Provided, however,* that laws may be made securing to persons or corporations the right of way over the lands of either persons or corporations, and for works of internal improvement, the right to establish depots, stations, and turnouts, but just compensation shall, in all cases, be first made to the owner.

§ 26. That all navigable waters shall remain forever public highways, free to the citizens of the state, and of the United States, without tax, impost or toll imposed; and that no tax, toll, impost or wharfage shall be demanded or received from the owner of any merchandise or commodity, for the use of the shores, or any wharf erected on the shores, or in or over the waters of any navigable stream, unless the same be expressly authorized by the general assembly.

§ 27. That the citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the power of government, for redress of grievances, or other purposes, by petition, address or remonstrance.

§ 28. That every citizen has a right to bear arms in defense of himself and the state.

§ 29. That no person who conscientiously scruples to bear arms shall be compelled to do so, but may pay an equivalent for personal service.

§ 30. That no standing army shall be kept up without the consent of the general assembly; and, in that case, no appropriation for its support shall be made for a longer term than one year, and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

§ 31. That no soldier shall, in time of peace, be quartered in any

house, without the consent of the owner; or in time of war, but in a manner to be prescribed by law.

§ 32. That no title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this state; that no property qualification shall be necessary to the election to, or holding of, any office in this state, and that no office shall be created, the appointment to which shall be for a longer time than during good behavior.

§ 33. That emigration from the state shall not be prohibited, and that no citizen shall be exiled.

§ 34. That temporary absence from the state shall not cause a forfeiture of residence once obtained.

§ 35. That no form of slavery shall exist in this state; and there shall be no involuntary servitude, otherwise than for the punishment of crime, of which the party shall have been duly convicted.

§ 36. The right of suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult, or other improper conduct.

§ 37. That this state has no right to sever its relations to the Federal Union, or to pass any law in derogation of the paramount allegiance of the citizens of this state to the government of the United States.

§ 38. That this enumeration of certain rights shall not impair or deny others retained by the people.

ARTICLE II.

STATE AND COUNTY BOUNDARIES.

§ 1. The boundaries of this state are established and declared to be as follows—that is to say: Beginning at the point where the thirty-first degree of north latitude crosses the Perdido river; thence east, to the western boundary line of the state of Georgia; thence along said line to the southern boundary line of the state of Tennessee; thence west, along the southern boundary line of the state of Tennessee, crossing the Tennessee river, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear creek; thence by a direct line to the northwest corner of Washington county, in this state, as originally formed; thence southerly along the line of the state of Mississippi to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore, to the Perdido river; and thence up the said river to the beginning.

§ 2. The general assembly may, by a two-thirds vote of both houses thereof, arrange and designate boundaries for the several counties of this state, which boundaries shall not be altered, except by a like vote. But no new counties shall be hereafter formed of less extent than six hundred square miles; and no existing county shall be reduced to less extent than six hundred square miles; and no new

county shall be formed which does not contain a sufficient number of inhabitants to entitle it to one representative under the ratio of representation existing at the time of its formation, or unless the county or counties from which it is taken shall be left with the required number of inhabitants entitling such county or counties to separate representation.

ARTICLE III.

DISTRIBUTION OF POWERS OF GOVERNMENT.

§ 1. The powers of the government of the state of Alabama shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit; Those which are legislative to one; those which are executive to another; and those which are judicial to another.

§ 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

§ 1. The legislative power of this state shall be vested in a general assembly, which shall consist of a senate and house of representatives.

§ 2. The style of the laws of this state shall be, "Be it enacted by the General Assembly of Alabama." Each law shall contain but one subject, which shall be clearly expressed in its title; and no law shall be revised or amended unless the new act contain the entire act revised, or the section or sections amended; and the section or sections so amended shall be repealed.

§ 3. Senators and representatives shall be elected by the qualified electors on the Tuesday after the first Monday in November. The term of office of the senators shall be four years, and that of the representatives two years, commencing on the day after the general election.

§ 4. No person shall be a representative unless he is eligible as an elector to vote for members of the general assembly.

§ 5. No person shall be a senator unless he be eligible as an elector to vote for members of the general assembly, and shall be twenty-seven years of age, and shall have resided for two years within the state, and for the last year thereof within the district for which he shall be chosen.

§ 6. The house of representatives, when assembled, shall choose a speaker and its other officers; and the senate shall choose a president, in the absence of the lieutenant-governor, and its other officers; each house shall judge of the qualifications, elections and returns of its own members, but a contested election shall be determined in such manner as shall be directed by law. The president of the senate and

the speaker of the house of representatives shall remain in office until their successors are elected and qualified.

§ 7. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

§ 8. Each house may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member; but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free and independent state.

§ 9. Each house, during the session, may punish by imprisonment any person, not a member, for disrespectful or disorderly behavior in its presence, or obstructing any of its proceedings; *Provided*, that such imprisonment shall not, at any time, exceed forty-eight hours.

§ 10. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-tenth of the members present, be entered on the journals. Any member of either house shall have liberty to dissent from, or protest against, any act or resolution which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journals.

§ 11. Members of the general assembly shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest; and they shall not be subject to any civil process during the session of the general assembly, nor for fifteen days next before the commencement and after the termination of each session.

§ 12. When vacancies occur in either house, the governor, or the person exercising the powers of the governor, shall issue writs of elections to fill such vacancies.

§ 13. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

§ 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

§ 15. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of law until on three several days it be read in each house, and free discussion be allowed thereon, unless, in case of urgency, four-fifths of the house in which the bill shall be pending may deem it expedient to dispense with this rule. And every bill having passed both houses, shall be signed by the speaker and president of their respective houses; *Provided*, that all bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them as other bills.

§ 16. Every bill or resolution having the force of law, to which the

concurrence of both houses of the general assembly may be necessary, except on a question of adjournment, which shall have passed both houses, shall be presented to the governor, and if he approve, he shall sign it; if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large on the journals, and proceed to reconsider it. If, after such reconsideration, a majority of the whole number of members of that house shall agree to pass it, it shall be sent, together with the objections, to the other house, by which it shall be reconsidered, and if approved by a majority of the whole number of members of that house, it shall have the same effect as if it had been signed by the governor; but in all such cases the votes of both houses shall be taken by yeas and nays, and the names of persons voting for and against the bill or resolution shall be entered on the journals of both houses respectively. If the bill or resolution shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, it shall have the same force and effect as if he had signed it, unless the general assembly, by its adjournment, prevent its return, in which case it shall not be a law.

§ 17. Every order, resolution or vote, to which the concurrence of both houses may be necessary (except on questions of adjournment, and for bringing on elections by the two houses), shall be presented to the governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the case of bills.

§ 18. Each member of the general assembly shall receive from the public treasury such compensation for his services as may be prescribed by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

§ 19. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this state, which shall have been created, or the emoluments of which shall have been increased during such term, except such office as may be filled by election by the people.

§ 20. No person who holds any lucrative office under the United States, or under this state or any other state, or government (except postmasters, officers in the militia, to whose office no annual salary is attached, justices of the peace, members of the court of county commissioners, notaries public, and commissioners of deeds); no person who has been convicted of having given or offered any bribe to procure his election to any office; no person who has been convicted of bribery, forgery, perjury or other high crime or misdemeanor, which may be by law declared to disqualify him; and no person who has been a collector or holder of any public moneys, and has failed to account for and pay over to the treasurer all sums for which he may be by law accountable, shall be eligible to the general assembly.

§ 21. The general assembly shall meet annually, on such day as

may be by law prescribed; and shall not remain in session longer than thirty days, except by a vote of two-thirds of each house.

§ 22. In all elections by the general assembly, the members shall vote *viva voce*, and the votes shall be entered on the journals.

§ 23. All state officers may be impeached for any misdemeanor in office, but judgment shall not extend further than removal from office, and disqualification to hold office, under the authority of this state. The party impeached, whether convicted or not, shall be liable to indictment, trial and judgment, according to law.

§ 24. The house of representatives shall have the sole power of preferring impeachment. All impeachments shall be tried by the senate; the senators, when sitting for that purpose, shall be on oath or affirmation; and no person shall be convicted under an impeachment without the concurrence of two-thirds of the senators present.

§ 25. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties who may choose that mode of adjustment.

§ 26. It shall be the duty of the general assembly, from time to time, as circumstances may require, to frame and adopt a penal code, founded on principles of reformation.

§ 27. It shall be the duty of the general assembly, within five years after the adoption of this constitution, and within every subsequent period of ten years, to make provision by law for the revision, digesting and promulgation of all the public statutes of this state, both civil and criminal.

§ 28. The general assembly shall have power to pass such penal laws as they may deem expedient to suppress the evil practice of dueling.

§ 29. It shall be the duty of the general assembly to regulate by law the cases in which deduction shall be made from the salaries of public officers for neglect of duty in their official capacities, and the amount of such deductions.

§ 30. Divorces from the bonds of matrimony shall not be granted but in the cases by law provided for, and by suit in chancery; but decisions in chancery for divorce shall be final, unless appealed from in the manner prescribed by law, within three months of the date of the enrollment thereof.

§ 31. No money shall be drawn from the treasury but in pursuance of an appropriation made by law; and a regular statement and account of the receipts and expenditures of all public moneys shall be published annually, in such manner as may be by law directed.

§ 32. The general assembly shall not borrow or raise money on the credit of this state, except for purposes of military defense against actual or threatened invasion, rebellion or insurrection, without the concurrence of two-thirds of the members of each house; nor shall the debts or liabilities of any corporation, person or persons, or other

states, be guaranteed, nor any money, credit or other thing be loaned or given away, except by a like concurrence of each house; and the votes shall, in each case, be taken by the yeas and nays and be entered on the journals.

§ 33. The state shall not engage in works of internal improvement; but its credit in aid of such may be pledged by the general assembly on undoubted security, by a vote of two-thirds of each house of the general assembly.

§ 34. It shall be the duty of the general assembly to make adequate provisions in each county for the maintenance of the poor of this state.

§ 35. Any citizen of this state who shall, after the adoption of this constitution, either in or out of this state, fight a duel with deadly weapons, or send or accept a challenge so to do, or act as a second, or knowingly aid or assist in any manner those thus offending, shall be incapable of holding any office under this state.

§ 36. The general assembly shall not have power to authorize any municipal corporation to pass any laws contrary to the general laws of this state, nor to levy a tax on real and personal property to a greater extent than two per centum of the assessed value of such property.

§ 37. In the event of annexation of any foreign territory to this state, the general assembly shall enact laws extending to the inhabitants of the acquired territory all the rights and privileges which may be required by the terms of the acquisition, anything in this constitution to the contrary notwithstanding.

ARTICLE V.

EXECUTIVE DEPARTMENT.

§ 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor, treasurer and attorney-general, who shall be chosen by the electors of the state, at the time and places at which they shall vote for representatives.

§ 2. The governor, lieutenant-governor, secretary of state, treasurer and attorney-general shall hold their offices for the term of two years, and the auditor for the term of four years.

§ 3. The returns of every election for the officers named in the preceding section shall be sealed up and transmitted to the seat of government, by the returning-officers, directed to the presiding officer of the senate, who, during the first week of the session, shall open and publish the same in the presence of a majority of the members of the general assembly; the person having the highest number of votes shall be declared duly elected, but if two or more shall be highest and equal in votes for the same office, one of them shall be chosen by the joint vote of both houses. Contested elections for executive officers shall be determined by both houses of the general assembly, and in such manner as shall be prescribed by law.

§ 4. The supreme executive power of this state shall be vested in the governor.

§ 5. He shall take care that the laws are faithfully executed.

§ 6. He may require information in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

§ 7. He shall communicate at every session by message to the general assembly, the condition of the state, and recommend such measures as he shall deem expedient.

§ 8. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purposes for which they have been convened.

§ 9. In case of disagreement between the two houses in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may think proper, but not beyond the regular meetings thereof.

§ 10. He shall be commander-in-chief of the military and naval forces of the state, except when they shall be called into the service of the United States.

§ 11. He shall have power, after conviction, to grant reprieves, commutations and pardons for all offenses (except treason and cases of impeachment), upon such conditions as he may think proper, subject, however, to such regulations as to the manner of applying for pardons as may be prescribed by law; but such pardons shall not relieve from civil or political disability. Upon conviction of treason, he may suspend the execution of the sentence, and report the same to the general assembly at the next meeting, when the general assembly shall either pardon, commute the sentence, direct its execution, or grant further reprieve. He shall communicate to the general assembly, at every regular session, each case of reprieve, commutation, or pardon granted, stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon or reprieve, with his reasons therefor.

§ 12. There shall be a great seal of the state, which shall be kept and used by the governor officially, and the seal heretofore in use shall continue to be the great seal of the state until another shall have been adopted by the general assembly.

§ 13. All grants and commissions shall be issued in the name and by the authority of the state of Alabama, sealed with the great seal, signed by the governor, and countersigned by the secretary of state.

§ 14. No member of congress, or other person, holding office under the authority of this state, or of the United States, shall execute the office of governor, except as herein provided.

§ 15. In case of the death, impeachment, resignation, removal or other disability of the governor, the powers and duties of the office, for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant-governor.

§ 16. The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided, and in case of his absence or impeachment, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

§ 17. If the lieutenant-governor, while executing the office of governor, shall be impeached, displaced, resign or die, or otherwise become incapable of performing the duties of the office, the president of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

§ 18. Should the office of secretary of state, auditor, treasurer or attorney-general become vacant from any of the causes specified in the fifteenth section of this article, the governor shall fill the vacancy until the disability is removed or a successor elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after it shall have occurred, and the person chosen shall hold the office for the full term fixed in the second section of this article.

§ 19. The officers mentioned in this article shall, at stated times, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

§ 20. The officers of the executive department and of the public institutions of the state, shall at least five days preceding each regular session of the general assembly, severally report to the governor, who shall transmit such reports, with his message, to the general assembly.

§ 21. A sheriff shall be elected in each county, by the qualified electors thereof, who shall hold his office for the term of three years, unless sooner removed, and shall not be eligible to serve either as principal or deputy for any two successive terms. Vacancies in the office of sheriff shall be filled by the governor, as in other cases; and the person appointed shall continue in office until the next general election in the county for sheriff, as by law provided.

ARTICLE VI.

JUDICIAL DEPARTMENT.

§ 1. The judicial power of the state shall be vested in the senate, sitting as a court of impeachment, a supreme court, circuit courts, chancery courts, courts of probate, such inferior courts of law and equity, to consist of not more than five members, as the general assembly may from time to time establish, and such persons as may be by law invested with powers of a judicial nature.

§ 2. Except in cases otherwise directed in the constitution, the supreme court shall have appellate jurisdiction only, which shall be

coëxtensive with the state, under such restrictions and regulations, not repugnant to this constitution, as may from time to time be prescribed by law; *Provided*, that said court shall have power to issue writs of injunction, mandamus, *habeas corpus*, *quo warranto*, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdictions.

§ 3. The supreme court shall be held at the seat of government, but if that shall have become dangerous from an enemy, or from disease, it may adjourn to a different place.

§ 4. The state shall be divided by the general assembly into convenient circuits, each of which shall contain not less than three nor more than eight counties; and for each circuit there shall be chosen a judge, who shall, after his election or appointment, reside in the circuit for which he shall have been chosen.

§ 5. The circuit court shall have original jurisdiction in all matters, civil and criminal, within the state, not otherwise excepted in the constitution, but in civil cases only when the matter or sum in controversy exceeds fifty dollars; *Provided, however*, that the circuit court shall have equity jurisdiction concurrent with the courts of chancery in all cases for divorce, and cases in which the value of the matter in controversy does not exceed the sum of five thousand dollars.

§ 6. A circuit court shall be held in each county in the state at least twice in every year, and the judges of the several circuits may hold courts for each other, when they deem it expedient, and shall do so when directed by law; *Provided*, that the judges of the several circuit courts shall have power to issue writs of injunction returnable into courts of chancery.

§ 7. The general assembly shall have power to establish a court or courts of chancery, with original jurisdiction. The state shall be divided by the general assembly into convenient chancery divisions, and the divisions into districts; and for each division there shall be a chancellor, who shall, after his election or appointment, reside in the division for which he shall have been elected or appointed.

§ 8. A chancery court shall be held in each county at a place therein to be fixed by law, and the chancellors may hold courts for each other, when they deem it expedient.

§ 9. The general assembly shall have power to establish in each county within the state a court of probate, with general jurisdiction for the granting of letters testamentary and of administration, and for orphans' business; and the general assembly may confer on the said courts jurisdiction of contracts for labor, and order frequent sessions for that purpose.

§ 10. The judges of the supreme court, circuit courts, and courts of chancery shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites, nor hold any office (except judicial offices) of profit or trust under the state or the United States,

during the term for which they have been elected, nor under any other power during their continuance in office.

§ 11. Judges of the supreme court, and chancellors, judges of the circuit and probate courts, and of such other inferior courts as may be by law established, shall be elected by the qualified electors of the respective counties, cities, towns, or districts, for which said courts may be established, on the Tuesday after the first Monday in November of each year, or such other day as may be by law prescribed. Vacancies in the office of the circuit judge, judge of probate, or judge of any other inferior court established by law, shall be filled by the governor; and the person appointed by him shall hold office until the next election day appointed by law for election of judge, and until his successor shall have been elected and qualified.

§ 12. The judges of the several courts of this state shall hold their office for the term of six years; and the right of any judge to hold his office for the full term hereby prescribed shall not be affected by any change hereafter made by law in any circuit or district, or in the mode or time of election; but for any willful neglect of duty, or any other reasonable cause which shall not be a sufficient ground of impeachment, the governor shall remove any judge, on the address of two-thirds of each house of the general assembly; *Provided*, that the cause or causes for which said removal may be required, shall be stated at length in such address, and entered on the journals of each house; *And provided further*, that the judge intended to be removed shall be notified of such cause or causes, and shall be admitted to a hearing in his own defense, before any vote for such address; and in all such cases the vote shall be taken by yeas and nays, and be entered on the journal of each house respectively.

§ 13. A competent number of justices and constables shall be elected in and for each county by the qualified electors thereof, who shall hold office during such terms as may be prescribed by law. Said justices shall have jurisdiction in all civil cases wherein the amount in controversy does not exceed one hundred dollars. In all cases tried before such justices the right of appeal shall be secured by law; *Provided*, that notaries public appointed according to law shall be authorized and required to exercise throughout their respective counties all the powers and jurisdiction of justices of the peace.

§ 14. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the state; as also the judges of the circuit courts within their respective circuits; and the judges of the inferior courts within their respective counties.

§ 15. The clerk of the supreme court shall be appointed by the judges thereof; registers in chancery, by the chancellors of the divisions; and all the clerks and registers so appointed shall be removed by the appointing power, for cause to be placed on the records of the court.

§ 16. The attorney-general shall reside at the seat of government,

and shall be the law officer of the state. During the session of the general assembly he shall furnish to the committees of either house, when required, drafts of bills and written opinions upon any matter under consideration of the committees, and shall perform such other duties as may be required of him by law.

§ 17. A solicitor shall be elected in each county in this state by the qualified electors of such county, who shall reside in the county for which he is elected, and perform such duties as may be required of him by law. He shall hold office for a term of four years, and in case of vacancy shall be filled by the judge of the circuit until his successor is elected and qualified.

§ 18. Clerks of the circuit court, and such inferior courts as may be by law established, shall be elected by the qualified electors in each county, for the term of six years, and may be removed from office for cause, and in such manner as may be by law prescribed. Vacancies in the office of clerk shall be filled by the judge of the court, until the next general election, and until a successor shall be elected and qualified; *Provided*, that the general assembly shall have power to annex the duties of clerk to the office of judge of any of the inferior courts by law established.

§ 19. The style of all processes shall be "The State of Alabama," and all prosecutions shall be carried on in the name and by the authority of the state of Alabama, and shall conclude, "against the peace and dignity of the same."

ARTICLE VII.

ELECTIONS.

§ 1. In all elections by the people, the electors shall vote by ballot.

§ 2. Every male person, born in the United States, and every male person who has been naturalized, or who has legally declared his intention to become a citizen of the United States, twenty-one years old or upward, who shall have resided in this state six months next preceding the election, and three months in the county in which he offers to vote, except as hereinafter provided, shall be deemed an elector; *Provided*, that no soldier, or sailor, or marine in the military or naval service of the United States, shall hereafter acquire a residence by reason of being stationed on duty in this state.

§ 3. It shall be the duty of the general assembly to provide, from time to time, for the registration of all electors; but the following classes of persons shall not be permitted to register, vote, or hold office: 1st. Those who, during the late rebellion, inflicted, or caused to be inflicted, any cruel or unusual punishment upon any soldier, sailor, marine, employe or citizen of the United States, or who, in any other way, violated the rules of civilized warfare. 2d. Those who may be disqualified from holding office by the proposed amendment of the constitution of the United States, known as "Article XIV," and those who have been disqualified from registering to vote for delegates to the

convention to frame a constitution for the state of Alabama, under the act of congress "to provide for the more efficient government of the rebel states," passed by congress, March 2, 1867, and the acts supplementary thereto, except such persons as aided in the reconstruction proposed by congress, and accept the political equality of all men before the law; *Provided*, that the general assembly shall have power to remove the disabilities incurred under this clause. 3d. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crime punishable by law with imprisonment in the penitentiary, or bribery. 4th. Those who are idiots or insane.

§ 4. All persons, before registering, must take and subscribe the following oath: "I. ————, do solemnly swear (or affirm) that I will support and maintain the constitution and laws of the United States, and the constitution and laws of the state of Alabama; that I am not excluded from registering by any of the clauses in section 3, Article VII, of the constitution of the state of Alabama; that I will never countenance or aid in the secession of this state from the United States; that I accept the civil and political equality of all men; and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity, enjoyed by any other class of men; and furthermore, that I will not in any way injure, or countenance in others any attempt to injure any person or persons, on account of past or present support of the government of the United States, the laws of the United States, or the principle of the political and civil equality of all men, or for affiliation with any political party."

§ 5. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest and civil process, during their attendance at elections, and in going to and returning from the same.

§ 6. It shall be the duty of the general assembly to enact adequate laws giving protection against the evils arising from the use of intoxicating liquors at elections.

§ 7. Returns of elections for all civil officers elected by the people, who are to be commissioned by the governor, and also for the members of the general assembly, shall be made to the secretary of state.

ARTICLE VIII.

REPRESENTATION.

§ 1. The house of representatives shall consist of not more than one hundred members, who shall be apportioned by the general assembly among the several counties of the state according to the number of inhabitants in them respectively; and, to this end, the general assembly shall cause an enumeration of all the inhabitants of the state to be made in the year 1875, and every ten years thereafter, and shall make an apportionment of the representatives among the several counties at the first regular session after each enumeration; which apportionment,

when made, shall not be subject to alteration, until after the next census shall have been taken; *Provided*, that each county shall be entitled to at least one representative; *And provided further*, that when two or more adjoining counties shall each have a residuum, or fraction over and above the ratio then fixed by law, which fractions, when added together, equal, or exceed that ratio, in that case the county having the largest fraction shall be entitled to one additional representative.

§ 2. Until the general assembly shall make an apportionment of the representatives among the several counties, after the first enumeration made as herein provided, the counties of Autauga, Baldwin, Bibb, Blount, Butler, Calhoun, Clay, Clarke, Cherokee, Cleburne, Crenshaw, Choctaw, Coffee, Conecuh, Coosa, Covington, Dale, DeKalb, Elmore, Fayette, Henry, Jefferson, Lauderdale, Limestone, Marshall, Marion, Monroe, Morgan, Pike, Randolph, St. Clair, Shelby, Walker, Washington and Winston, shall have one representative each; the counties of Chambers, Franklin, Greene, Hale, Jackson, Lee, Lawrence, Macon, Pickens, Russell, Talladega, Tallapoosa and Tuscaloosa, shall be entitled to two representatives each; the counties of Barbour, Bullock, Lowndes, Madison, Marengo, Perry, Sumter and Wilcox, shall be entitled to three representatives each; the counties of Dallas, Mobile and Montgomery, shall be entitled to five representatives each; *Provided*, that in the formation of new counties the general assembly may apportion to each its proper representation.

§ 3. The whole number of senators shall be not less than one-fourth, or more than one-third, of the whole number of representatives; and it shall be the duty of the general assembly, at its first session after the making of each enumeration, as provided by section first, of this article, to fix by law the number of senators, and to divide the state into as many senatorial districts as there are senators; which districts shall be as nearly equal to each other as may be in the number of inhabitants, and each shall be entitled to one senator, and no more; *Provided*, that no county shall be divided, and no two or more counties, which are separated entirely by a county belonging to another district, shall be joined in one district; *And provided further*, that the senatorial districts, when formed, shall not be changed until after the next enumeration shall have been taken.

§ 4. At the first general election after each new apportionment, elections shall be held anew in all the senatorial districts. The senators elected when convened at the next ensuing session of the general assembly, shall be divided by lot into two classes, as nearly equal as may be; the seats of the senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years, from the day of election, so that (except as above provided) one-half of the senators may be chosen biennially.

§ 5. Until the general assembly shall divide the state into senatorial districts as herein provided, the senatorial districts shall remain as follows: First district, Limestone and Lauderdale; second, Franklin

and Lawrence; third, Morgan, Blount, Winston and Marion; fourth, Madison; fifth, Jackson, Marshall, and DeKalb; sixth, Cherokee and Calhoun; seventh, Walker, Jefferson and St. Clair; eighth, Shelby and Bibb; ninth, Tuscaloosa and Fayette; tenth, Talladega and Clay; eleventh, Chambers, Randolph and Cleburne; twelfth, Coosa and Tallapoosa; thirteenth, Lee; fourteenth, Macon; fifteenth, Russell; sixteenth, Bullock; seventeenth, Barbour; eighteenth, Autauga and Elmore; nineteenth, Montgomery; twentieth, Lowndes; twenty-first, Dallas; twenty-second, Perry; twenty-third, Hale; twenty-fourth, Greene and Pickens; twenty-fifth, Sumter; twenty-sixth, Marengo; twenty-seventh, Choctaw, Clarke and Washington; twenty-eighth, Mobile; twenty-ninth, Monroe and Baldwin; thirtieth, Wilcox; thirty-first, Butler and Conecuh; thirty-second, Covington, Crenshaw and Pike; thirty-third, Coffee, Dale and Henry.

§ 6. Until a new apportionment of representatives to the congress of the United States shall have been made, the congressional districts shall remain as stated in the Revised Code of Alabama, and after each new apportionment, the general assembly shall divide the state into as many districts as it is allowed representatives in congress, making such congressional districts as nearly equal in the number of inhabitants as may be.

ARTICLE IX.

TAXATION.

§ 1. All taxes levied on property in this state, shall be assessed in exact proportion to the value of such property; *Provided, however,* that the general assembly may levy a poll-tax not to exceed one dollar and fifty cents on each poll, which shall be applied exclusively in aid of the public-school fund.

§ 2. No power to levy taxes shall be delegated to individuals or private corporations.

ARTICLE X.

MILITIA.

§ 1. All able-bodied male inhabitants of this state, between the ages of eighteen years and forty-five years, who are citizens of the United States, or who have declared their intention to become citizens of the United States, shall be liable to military duty in the militia of this state; but all citizens of any denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be exempt therefrom upon such conditions as may be prescribed by law.

§ 2. The general assembly shall provide for the organizing, arming, equipping and discipline of the militia, and for paying the same, when called into service, in such manner as it shall deem expedient, not incompatible with the laws of the United States.

§ 3. Officers of the militia shall be elected or appointed and commissioned in such manner as may be provided by the general assembly.

§ 4. The governor shall be commander-in-chief of the army and navy of this state, and of the militia, except when called into the service of the United States, and shall have power to call forth the militia to execute the laws, to suppress riots or insurrections, and to repel invasion.

§ 5. The governor shall nominate, and by and with the consent of the senate, appoint one major-general and three brigadier-generals; the adjutant-general, and other staff-officers to the commander-in-chief, shall be appointed by the governor, and their commissions shall expire with the governor's term of service. No commissioned officer shall be removed from office, except by the senate, on the recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of a court martial pursuant to law.

§ 6. The militia may be divided into two classes, to be designated as "volunteer militia" and "reserve militia," in such manner as shall be provided by law.

§ 7. The militia shall, in all cases, except felony, treason, or breach of the peace, be privileged from arrest during their attendance at musters and elections of officers, and in going to and returning from the same.

§ 8. The officers and men commissioned and organized, shall not be entitled to, or receive any pay, rations, or emoluments, when not in active service.

ARTICLE XI.

EDUCATION.

§ 1. The common schools, and other educational institutions of this state, shall be under the management of a board of education, consisting of a superintendent of public instruction and two members from each congressional district.

The governor of the state shall be ex-officio a member of the board, but shall have no vote in its proceedings.

§ 2. The superintendent of public instruction shall be president of the board of education, and have the casting vote in case of a tie; he shall have the supervision of the public schools of the state, and perform such other duties as may be imposed upon him by the board and the laws of the state. He shall be elected in the same manner and for the same term as the governor of the state, and receive such salary as may be fixed by law. An office shall be assigned him in the capitol of the state.

§ 3. The members of the board shall hold office for a term of four years, and until their successors shall be elected and qualified. After the first election under the constitution, the board shall be divided into two equal classes, so that each class shall consist of one member from each district. The seats of the first class shall be vacated at the expiration of two years from the day of election, so that one-half may be chosen biennially.

§ 4. The members of the board of education, except the superintendent, shall be elected by the qualified electors of the congressional districts in which they are chosen, at the same time and in the same manner as the members of congress.

§ 5. The board of education shall exercise full legislative powers in reference to the public educational institutions of the state, and its acts, when approved by the governor, or when re-enacted by two-thirds of the board, in case of his disapproval, shall have the force and effect of law, unless repealed by the general assembly.

§ 6. It shall be the duty of the board to establish, throughout the state, in each township, or other school district which it may have created, one or more schools at which all the children of the state, between the ages of five and twenty-one years, may attend free of charge.

§ 7. No rule or law affecting the general interest of education shall be made by the board without the concurrence of a majority of its members. The style of the acts of the board shall be, "Be it enacted by the Board of Education of the State of Alabama."

§ 8. The board of education shall be a body politic and corporate, by the name and style of "The Board of Education of the State of Alabama." Said board shall also be a board of regents of the state university, and when sitting as a board of regents of the university, shall have power to appoint the president and the faculties thereof.

The president of the university shall be ex-officio a member of the board of regents, but shall have no vote in its proceedings.

§ 9. The board of education shall meet annually at the seat of government at the same time as the general assembly, but no session shall continue longer than twenty days, nor shall more than one session be held in the same year, unless authorized by the governor. The members shall receive the same mileage and daily pay as the members of the general assembly.

§ 10. The proceeds of all lands that have been or may be granted by the United States to the state for educational purposes; of the swamp lands; and of all lands or other property given by individuals or appropriated by the state for like purposes; and of all estates of deceased persons who have died without leaving a will or heir; and all moneys which may be paid as an equivalent for exemption from military duty, shall be and remain a perpetual fund, which may be increased, but not diminished; and the interest and income which, together with the rents of all such lands as may remain unsold, and such other means as the general assembly may provide, shall be inviolably appropriated to educational purposes, and to no other purpose whatever.

§ 11. In addition to the amount accruing from the above sources, one-fifth of the aggregate annual revenue of the state shall be devoted exclusively to the maintenance of public schools.

§ 12. The general assembly may give power to the authorities of

the school districts to levy a poll-tax on the inhabitants of the district in aid of the general school fund, and for no other purpose.

§ 13. The general assembly shall levy a specific annual tax upon all railroad, navigation, banking, and insurance corporations, and upon all insurance and foreign bank and exchange agencies, and upon the profits of foreign bank-bills issued in this state, by any corporation, partnership, or persons, which shall be exclusively devoted to the maintenance of public schools.

§ 14. The general assembly shall, as soon as practicable, provide for the establishment of an agricultural college, and shall appropriate the two hundred and forty thousand acres of land donated to this state for the support of such a college, by the act of congress passed July 2, 1862, or the money or scrip, as the case may be, arising from the sale of said land, or any lands which may hereafter be granted, or appropriated for such purpose, for the support and maintenance of such college or schools, and may make the same a branch of the university of Alabama for instruction in agriculture, in the mechanic arts, and the natural sciences connected therewith, and place the same under the supervision of the regents of the university.

ARTICLE XII.

INDUSTRIAL RESOURCES.

§ 1. A bureau of industrial resources shall be established, to be under the management of a commissioner, who shall be elected at the first general election, and shall hold his office for the term of four years.

§ 2. The commissioner of industrial resources shall collect and condense statistical information concerning the productive industries of the state; and shall make, or cause to be made, a careful, accurate and thorough report upon the agriculture and geology of the state, and annually report such additions as the progress of scientific development and extended explorations may require. He shall, from time to time, disseminate among the people of the state such knowledge as he may deem important, concerning improved machinery and production, and for the promotion of their agricultural, manufacturing, and mining interests; and shall send out to the people of the United States and foreign countries, such reports concerning the industrial resources of Alabama, as may best make known the advantages offered by the state to emigrants; and shall perform such other duties as the general assembly may require.

§ 3. It shall be the duty of the general assembly, at the first session after the adoption of this constitution, to pass such laws and regulations as may be necessary for the government and protection of this bureau, and also to fix and provide for the compensation of the commissioner.

§ 4. This bureau shall be located, and the commissioner shall re-

side at the capital of the state, and he shall annually make a written or printed report to the governor of the state, to be laid before the general assembly at each session.

§ 5. In case of the death, removal or resignation of the commissioner, the governor, with the approval of the senate, shall have power to appoint a commissioner for the unexpired term.

ARTICLE XIII.

CORPORATIONS.

§ 1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All general laws and special acts passed pursuant to this section, may be altered, amended or repealed.

§ 2. Dues from corporations shall be secured by such individual liabilities of the corporators or other means as may be prescribed by law.

§ 3. Each stockholder in any corporation shall be liable to the amount of stock held or owned by him.

§ 4. The property of corporations now existing, or hereafter created, shall forever be subject to taxation, the same as property of individuals, except corporations for educational and charitable purposes.

§ 5. No right of way shall be appropriated to the use of any corporation, until full compensation therefor be first made in money or secured by a deposit of money to the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury of twelve men, in a court of record, as shall be prescribed by law.

§ 6. The general assembly shall not have power to establish or incorporate any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit or bills payable to order or bearer, except under the conditions prescribed in this constitution.

§ 7. No bank shall be established, otherwise than under a general banking law, as provided in the first section of this article.

§ 8. The general assembly may enact a general banking law, which law shall provide for the registry and countersigning by the governor of the state, of all paper credit designed to be created as money; and ample collateral security, convertible into specie, or the redemption of the same in gold or silver, shall be required, and such collateral security shall be under the control of such officer or officers as may be prescribed by law.

§ 9. All bills or notes issued as money, shall be, at all times, redeemable in gold or silver, and no law shall be passed, sanctioning, directly or indirectly, the suspension, by any bank or banking company, of specie payment.

§ 10. Holders of bank-notes shall be entitled, in case of insolvency, to preference of payment over all other creditors.

§ 11. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter close its business.

§ 12. No bank shall receive directly or indirectly, a greater rate of interest than shall be allowed by law to individuals for lending money.

§ 13. The state shall not be a stockholder in any bank, nor shall the credit of the state ever be given or lent to any banking company, association or corporation, except for the purpose of expediting the construction of railroads, or works of internal improvement, within this state, and the credit of the state shall, in no case, be given or lent without the approval of two-thirds of both houses of the general assembly.

§ 14. All corporations shall have the right to sue and shall be subject to be sued, in all courts, in like cases as natural persons.

§ 15. It shall be the duty of the general assembly to provide for the organization of cities, and incorporated towns, and to restrict their power of taxation, assessment and contracting of debt.

ARTICLE XIV.

EXEMPTED PROPERTY.

§ 1. The personal property of any resident of this state to the value of one thousand dollars, to be selected by such resident, shall be exempted from sale on execution, or other final process of any court, issued for the collection of any debt contracted after the adoption of this constitution.

§ 2. Every homestead, not exceeding eighty acres of land, and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any town, city, or village, or in lieu thereof, at the option of the owner, any lot in the city, town, or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this state, and not exceeding the value of two thousand dollars, shall be exempted from sale, on execution, or any other final process from a court, from any debt contracted after the adoption of this constitution. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of such homestead, by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife of the same.

§ 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of any debts contracted after the adoption of this constitution, in all cases during the minority of the children.

§ 4. The provisions of sections one and two of this article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming such exemption, or a mechanic's lien for work done on the premises.

§ 5. If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt, and the rents and profits thereof shall enure to her benefit.

§ 6. The real and personal property of any female in this state, acquired before marriage, and all property, real and personal, to which she may afterwards be entitled by gift, grant, inheritance, or devise, shall be and remain the separate estate and property of such female, and shall not be liable for any debts, obligations, and engagements of her husband, and may be devised or bequeathed by her, the same as if she were a femme sole.

ARTICLE XV.

OATH OF OFFICE.

§ 1. All civil officers of this state, legislative, executive and judicial, before they enter upon the execution of the duties of their respective offices, shall take the following oath:

“I, — — —, do solemnly swear (or affirm) that I am not disfranchised by the constitution of Alabama, or by the constitution or laws of the United States; that I will honestly and faithfully support and defend the constitution and laws of the United States, the union of the states, and the constitution and laws of the state of Alabama, so long as I remain a citizen thereof; and that I will honestly and faithfully discharge the duties of the office upon which I am about to enter to the best of my ability. So help me God.”

ARTICLE XVI.

AMENDMENTS TO THE CONSTITUTION.

§ 1. The general assembly, whenever two-thirds of each house shall deem it necessary, may propose amendments to this constitution, which proposed amendments shall be duly published in print, at least three months before the next general election of representatives, for the consideration of the people, and it shall be the duty of the several returning-officers, at the next general election which shall be held for representatives, to open a poll for, and make a return to the secretary of state for the time being, of the names of all those voting for representatives who have voted on such proposed amendments, and if thereupon it shall appear that a majority of all the citizens of the state, voting for representatives, have voted in favor of such proposed amendments, and two-thirds of each house of the next general assembly shall, after such an election, and before another, ratify the same amendments by yeas and nays, they shall be valid, to all intents and purposes, as parts of the constitution; *Provided*, that the said proposed amendments shall, at each of the said sessions, have been read three times, on three several days, in each house.

After the expiration of three months from the adoption of this constitution, no convention shall be held for the purpose of altering or amending the constitution of this state, unless the question of convention or no convention shall be first submitted to a vote of all the elec-

tors, twenty-one years of age and upwards, and approved by a majority of the electors voting at said election.

ROBERT BARBER, *Secretary.*

E. W. PECK, *President.*

A. J. APPLGATE,
 W. A. AUSTIN,
 J. H. AUTREY,
 W. T. BLACKFORD,
 M. D. BRAINARD,
 W. M. BUCKLEY,
 J. H. BURDICK,
 J. CARRAWAY,
 J. COLLINS,
 J. H. DAVIS,
 G. J. DYKES,
 P. FINDLEY,
 W. C. GARRISON,
 J. K. GREENE,
 J. M. HATCHER,
 C. HAYES,
 W. JOHNSON,
 C. JONES,
 S. F. KENNAMEE,
 D. LORE,
 J. MAHAN,
 B. O. MASTERTON,
 S. MOORE,
 J. F. MORTON,
 T. M. PETERS,
 H. C. RUSSELL,
 J. SILSBY,
 L. R. SMITH,
 H. J. SPRINGFIELD,
 J. P. STOW,
 W. A. WALKER,
 J. R. WALKER,
 J. A. YORDY,
 N. D. STANWOOD,

THOMAS ADAMS,
 B. ALEXANDER,
 D. H. BINGHAM,
 A. BINGHAM,
 SAM. BLANDON,
 A. E. BUCK,
 C. W. BUCKLEY,
 P. BURTON,
 D. E. COON,
 THOMAS DIGGS,
 GEORGE ELY,
 S. S. GARDNER,
 O. GREGORY,
 A. GRIFFIN,
 T. HAUGHEY,
 B. INGE,
 A. W. JONES,
 J. C. KEFFER,
 TOM LEE,
 H. MCGOWN,
 J. W. MCLEOD,
 J. J. MARTIN,
 C. A. MILLER,
 A. L. MORGAN,
 B. W. NORRIS,
 J. T. RAPIER,
 B. F. SAFFOLD,
 WM. SKINNER,
 C. L. STEED,
 L. B. STRANGE,
 C. O. WHITNEY,
 J. W. WILHITE,
 R. M. REYNOLDS,
 G. P. PLOWMAN.

Vote for the constitution, 70,812; against it, 79,566.

"I deem it only necessary to say here that, from all the evidence I could procure—and I caused the most thorough investigation to be made—the constitution was fairly rejected by the people, under the law requiring a majority of the registered voters to cast their ballots for or against."—*Major-General Meade's Report, October 31, 1868.*

"In Alabama the constitution was submitted to the people, and although, in the opinion of General Meade, it was rejected by the people, it was adopted by congress."—*Report of Secretary of War, November 20, 1868.*

What is called the constitution of 1868, became operative June 25, 1868.—*Irwin, Esq., v. Mayor, Aldermen and Common Council of Mobile, December Term of Supreme Court of Alabama, 1876, 57 Ala., 6.* The constitutional convention of 1875 fixed the time at the 13th July, 1868, the day of usurpation; and it seems to be true that the validity of a *de facto* government cannot antedate the time of its becoming *de facto*.

[Note from Code of 1876.]

CONSTITUTION OF THE UNITED STATES—1787.*

(Went into operation Wednesday, March 4, 1789.—Owings v. Speed, 5 Wheaton, 420.)

WE, THE PEOPLE of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this **CONSTITUTION** for the United States of America.

Chisholm v. Georgia, 2 Dall. 419; Martin v. Hunter, 1 Wh. 304; Dugan v. United States, 3 Wh. 172; McCulloch v. Maryland, 4 Wh. 316; Cohens v. Virginia, 6 Wh. 264; Brown v. Maryland, 12 Wh. 419; United States v. Tingey, 5 Pet. 115; Worcester v. Georgia, 6 Pet. 515; Martin v. Waddell, 16 Pet. 367; Pollard v. Hagan, 3 How. 212; Texas v. White, 7 Wall. 700; Mattox v. United States, 156 U. S. 237.

*In May, 1785, a committee of congress made a report recommending an alteration in the Articles of Confederation, but no action was taken on it, and it was left to the state legislatures to proceed in the matter. In January, 1786, the legislature of Virginia passed a resolution providing for the appointment of five commissioners, who, or any three of them, should meet such commissioners as might be appointed in the other states of the Union, at a time and place to be agreed upon, to take into consideration the trade of the United States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several states such an act, relative to this great object, as, when ratified by them, will enable the United States in congress effectually to provide for the same. The Virginia commissioners, after some correspondence, fixed the first Monday in September as the time, and the city of Annapolis as the place for the meeting, but only four other states were represented, viz.: Delaware, New York, New Jersey, and Pennsylvania; the commissioners appointed by Massachusetts, New Hampshire, North Carolina, and Rhode Island failed to attend. Under the circumstances of so partial a representation, the commissioners present agreed upon a report (drawn by Mr. Hamilton, of New York) expressing their unanimous conviction that it might essentially tend to advance the interests of the Union if the states by which they were respectively delegated would concur, and use their endeavors to procure the concurrence of the other states, in the appointment of commissioners to meet at Philadelphia on the second Monday of May following, to take into consideration the situation of the United States; to devise such further provisions as should appear to them necessary to render the constitution of the federal government adequate to the exigencies of the Union; and to report such an act for that purpose to the United States in congress assembled as, when agreed to by them and afterwards confirmed by the legislatures of every state, would effectually provide for the same.

Congress, on the 21st of February, 1787, adopted a resolution in favor of a convention, and the legislatures of those states which had not already done so (with the exception of Rhode Island) promptly appointed delegates. On the 25th of May, seven states having convened, George Washington, of Virginia, was unanimously elected president, and the consideration of the proposed constitution was commenced. On the 17th of September, 1787, the constitution as engrossed and agreed upon was signed by all the members present, except Mr. Gerry, of Massachusetts, and Messrs. Mason and Randolph, of Virginia. The president of the convention transmitted it to congress, with a resolution stating how the proposed federal government should be put in operation, and an explanatory letter. Congress, on the 28th of September, 1787, directed the constitution so framed, with the resolutions and letter concerning the same, to "be transmitted to the several legislatures in order to be submitted to a convention of delegates chosen in each state by the people thereof, in conformity to the resolves of the convention."

On the 4th of March, 1789, the day which had been fixed for commencing the operations of government under the new constitution, it had been ratified by the conventions chosen in each state to consider it, as follows: Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 26, 1788; and New York, July 26, 1788.

The president informed congress, on the 28th of January, 1790, that North Carolina had ratified the constitution November 21, 1789; and he informed congress on the 1st of June, 1790, that Rhode Island had ratified the constitution May 29, 1789. Vermont, in convention, ratified the constitution January 10, 1791, and was, by an act of congress approved February 18, 1791, "received and admitted into this Union as a new and entire member of the United States."

ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

Hayburn's case (notes), 2 Dall. 409; Sinking Fund Cases, 99 U. S. 700.

SECTION 2. ¹The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

²No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

³*[Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.] The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative, and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

Hylton v. United States, 3 Dall. 171; Loughborough v. Blake, 5 Wh. 317; Pacific Ins. Co. v. Soule, 7 Wall. 433; Veazie Bank v. Fenno, 8 Wall. 533; Scholey v. Rew, 23 Wall. 331; DeTreville v. Smalls, 98 U. S. 517; Springer v. United States, 102 U. S., 586; Head Money Cases, 112 U. S. 580; Income Tax Cases, 157 U. S. 429; 158 U. S. 601.

⁴When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

⁵The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SECTION 3. ¹The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

²Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated

*The clause included in brackets is amended by the 14th amendment, 2d section.

at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

³No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

⁴The vice-president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

⁵The senate shall choose their other officers, and also a president pro tempore, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

⁶The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

⁷Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SECTION 4. ¹The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

Ex parte Siebold, 100 U. S. 371; *Ex parte Clarke*, 100 U. S. 399; *Ex parte Yarborough*, 110 U. S. 651.

²The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION 5. ¹Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

United States v. Ballin, 144 U. S. 1.

²Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Anderson v. Dunn, 6 Wh. 204; *Kilbourn v. Thompson*, 103 U. S. 168.

³Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Field v. Clarke, 143 U. S. 649.

⁴Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECTION 6. ¹The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

Cox v. McClenachan, 3 Dall. 478.

²No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

SECTION 7. ¹All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

²Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Matthews v. Zane, 7 Wh. 164; *Gardner v. Collector*, 6 Wall. 499.

³Every order, resolution, or vote to which the concurrence of the senate and house of representatives may be necessary (except on a

question of adjournment) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8. The congress shall have power:—¹To lay and collect taxes, duties, imposts and excise, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

Hylton v. United States, 3 Dall. 171; *McCulloch v. Maryland*, 4 Wh. 316; *Loughborough v. Blake*, 5 Wh. 317; *Osborn v. Bank of United States*, 9 Wh. 738; *Weston v. City Council of Charleston*, 2 Pet. 449; *Dobbins v. The Commissioners of Erie County*, 16 Pet. 435; *License Cases*, 5 How. 504; *Cooley v. Board of Wardens*, 12 How. 299; *McGuire v. The Commonwealth*, 3 Wall. 387; *Van Allen v. The Assessors*, 3 Wall. 573; *Bradley v. The People*, 4 Wall. 459; *License Tax Cases*, 5 Wall. 462; *Pervear v. The Commonwealth*, 5 Wall. 475; *Woodruff v. Parham*, 8 Wall. 123; *Hinson v. Lott*, 8 Wall. 148; *Veazie Bank v. Feno*, 8 Wall. 533; *The Collector v. Day*, 11 Wall. 113; *United States v. Singer*, 15 Wall. 111; *State tax on foreign-held bonds*, 15 Wall. 300; *United States v. Railroad Company*, 17 Wall. 322; *Railroad Company v. Peniston*, 18 Wall. 5; *Scholey v. Rew*, 23 Wall. 331; *Springer v. United States*, 102 U. S. 586; *Legal Tender Case*, 110 U. S. 421; *Brown v. Houston*, 114 U. S. 622; *Income Tax Cases*, 157 U. S. 429; 158 U. S. 601.

²To borrow money on the credit of the United States;

McCulloch v. Maryland, 4 Wh. 316; *Weston v. The City Council of Charleston*, 2 Pet. 449; *Bank of Commerce v. New York City*, 2 Black 620; *Bank Tax Cases*, 2 Wall. 200; *The Bank v. The Mayor*, 7 Wall. 16; *Bank v. Supervisors*, 7 Wall. 26; *Hepburn v. Griswold*, 8 Wall. 603; *National Bank v. Commonwealth*, 9 Wall. 353; *Parker v. Davis*, 12 Wall. 457; *Legal Tender Case*, 110 U. S. 421.

³To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

Gibbons v. Ogden, 9 Wh. 1; *Brown v. Maryland*, 12 Wh. 419; *Wilson v. Black Bird Creek Marsh Company*, 2 Pet. 245; *Worcester v. Georgia*, 6 Pet. 515; *New York v. Miln*, 11 Pet. 102; *United States v. Coombs*, 12 Pet. 72; *Holmes v. Jennison*, 14 Pet. 540; *License Cases*, 5 How. 504; *Passenger Cases*, 7 How. 283; *Nathan v. Louisiana*, 8 How. 73; *Mager v. Grima et al.*, 8 How. 490; *United States v. Marigold*, 9 How. 580; *Cowley v. Board of Wardens*, 12 How. 299; *The Propeller Genesee Chief v. Fitzhugh*, 12 How. 443; *State of Pennsylvania v. The Wheeling Bridge Company*, 13 How. 518; *Veazie v. Moor*, 14 How. 368; *Smith v. Maryland*, 18 How. 71; *Pennsylvania v. The Wheeling and Belmont Bridge Company*, 18 How. 421; *Sinnitt v. Davenport*, 22 How. 227; *Foster v. Davenport*, 23 How., 244; *Conway v. Taylor*, 1 Black 603; *United States v. Holliday*, 3 Wall. 407; *Gilman v. Philadelphia*, 3 Wall. 713; *The Passaic Bridges*, 3 Wall. 782; *Steamship Company v. Port Wardens*, 6 Wall. 31; *Crandall v. Nevada*, 6 Wall. 35; *White's Bank v. Smith*, 7 Wall. 646; *Waring v. The Mayor*, 8 Wall. 110; *Paul v. Virginia*, 8 Wall. 168; *Thomson v. Pacific Railroad*, 9 Wall. 579; *Downham et al. v. Alexandria Council*, 10 Wall. 173; *The Clinton Bridge*, 10 Wall. 454; *The Daniel Ball*, 10 Wall. 557; *Liverpool Insurance Company v. Massachusetts*, 10 Wall. 566; *The Montello*, 11 Wall. 411; *Ex parte McNeil*, 13 Wall. 236; *State freight-tax*, 15 Wall. 232; *State tax on railway gross receipts*, 15 Wall. 284; *Osborn v. Mobile*, 16 Wall. 479; *Railroad Company v. Fuller*, 17 Wall. 560; *Bartemeyer v. Iowa*, 18 Wall. 129; *The Delaware railroad tax*, 18 Wall. 206; *Peete v. Morgan*, 19 Wall. 581; *Railroad Company v. Richmond*, 19 Wall. 584; *Railroad Company v. Maryland*, 21 Wall. 456; *The Lottawanna*, 21 Wall. 558; *Welton v. Missouri*, 91 U. S. 275; *Henderson v. New York*, 92 U. S. 259; *Chy Lung v. Freeman*, 92 U. S. 275; *South Carolina v. Georgia*, 93 U. S. 4; *Sherlock v. Alling*, 93 U. S. 99; *United States v. Forty-three Gallons of Whisky*, 93 U. S. 183; *Munn v. Illinois*, 94 U. S. 113; *Foster v. Master and Wardens*, 94 U. S. 246; *McCrary v. Virginia*, 94 U. S.

375; *Railroad Company v. Husen*, 95 U. S. 465; *Pensacola Telegraph Company v. Western Union Telegraph Company*, 96 U. S. 1; *Beer Company v. Massachusetts*, 97 U. S. 25; *Cook v. Pennsylvania*, 97 U. S. 566; *Transportation Company v. Wheeling*, 99 U. S. 273; *Packet Company v. St. Louis*, 100 U. S. 423; *Wilson v. McNamee*, 102 U. S. 572; *Western Union Telegraph Company v. Texas*, 105 U. S. 460; *Wiggins Ferry Company v. E. St. Louis*, 107 U. S., 365; *Moran v. New Orleans*, 112 U. S., 69; *Head Money Cases*, 112 U. S. 580; *Gloucester Ferry Company v. Pennsylvania*, 114 U. S., 196; *Poindexter v. Greenhow*, 114 U. S. 270; *Brown v. Houston*, 114 U. S. 622; *Robbins v. Shelby County Taxing District*, 120 U. S. 489; *Fargo v. Michigan*, 121 U. S., 230; *Philadelphia, etc., Co., v. Pennsylvania*, 122 U. S. 326; *Western Union Telegraph Company v. Massachusetts*, 125 U. S. 530; *Batterman v. Western Union Telegraph Company*, 127 U. S. 411; *Leloup v. Mobile*, 127 U. S. 640; *Western Union Telegraph Company v. Alabama*, 132 U. S. 472; *Bell's Gap. Rd. Company v. Pennsylvania*, 134 U. S. 232; *McCall v. California*, 136 U. S. 104; *N. & W. Railroad Company v. Pennsylvania*, 136 U. S. 114; *Pullman's Palace Car Company v. Pennsylvania*, 141 U. S. 18; *Maine v. Grand Trunk Railway*, 142 U. S. 217; *Pacific Express Company v. Seibert*, 142 U. S. 339; *Charlotte, etc., Railroad Company v. Gibbs*, 142 U. S. 386; *Budd v. New York*, 143 U. S. 517; *Lehigh Valley Railroad Company v. Pennsylvania*, 145 U. S., 192; *St. Louis v. Western Union Telegraph Company*, 148 U. S. 92; *Virginia v. Paul*, 148 U. S. 107; *Columbus Southern Railroad Company v. Wright*, 151 U. S. 470; *Brennan v. Titusville*, 153 U. S. 289; *Brass v. North Dakota*, 153 U. S. 391; *Ashley v. Ryan*, 153 U. S. 436; *Postal Telegraph Cable Company v. Charleston*, 153 U. S. 692; *Pittsburg, etc., Railroad Company v. Backus*, 154 U. S. 421; *Plumley v. Massachusetts*, 155 U. S. 461; *Texas and Pacific Railroad Company v. Interstate Transportation Company*, 155 U. S. 585; *Hooper v. California*, 155 U. S. 648; *Postal Telegraph Cable Company v. Adams*, 155 U. S. 688; *United States v. Knight*, 156 U. S., 1; *Maddox v. United States*, 156 U. S. 237; *Emert v. Missouri*, 156 U. S. 296; *Pittsburg, etc., Coal Company v. Bates*, 156 U. S. 577; *Pittsburg, etc., Coal Company v. Louisiana*, 156 U. S. 590; *In re Debbs*, 158 U. S. 564; *Geer v. Connecticut*, 161 U. S. 519; *Western Union Telegraph Company v. James*, 162 U. S. 650; *Western Union Telegraph Company v. Taggart*, 163 U. S. 1; *Illinois Central Railroad Company v. Illinois*, 163 U. S. 142; *Hemington v. Georgia*, 163 U. S., 299; *Plessy v. Ferguson*, 163 U. S. 537; *Osborne v. Florida*, 164 U. S. 650; *Adams Express Company v. Ohio*, 165 U. S. 194; *New York, etc., Railroad Company v. New York*, 165 U. S. 628.

⁴To establish an uniform rule of naturalization,^a and uniform laws on the subject of bankruptcies throughout the United States;^b

^b*Sturges v. Crowningshield*, 4 Wh. 122; ^b*McMillan v. McNeil*, 4 Wh. 209; ^b*Farmers' and Mechanics' Bank, Pennsylvania, v. Smith*, 6 Wh. 131; ^b*Ogden v. Saunders*, 12 Wh. 213; ^b*Boyle v. Zacharie*, 6 Pet. 348; ^a*Gassies v. Ballou*, 6 Pet. 761; ^b*Beers et al. v. Haughton*, 9 Pet. 329; ^b*Suydam et al. v. Broadnax*, 14 Pet. 67; ^b*Cook v. Moffat et al.*, 5 How. 295; ^a*Dred Scott v. Sanford*, 19 How. 393; *United States v. Fox*, 95 U. S. 670.

⁵To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

Briscoe v. The Bank of Kentucky, 11 Pet. 257; *Fox v. The State of Ohio*, 5 How. 410; *United States v. Marigold*, 9 How. 560; *Hepburn v. Griswold*, 8 Wall. 603; *Legal Tender Cases*, 12 Wall. 457; *Legal Tender Case*, 110 U. S. 421.

⁶To provide for the punishment of counterfeiting the securities and current coin of the United States;

Fox v. Ohio, 5 How. 410; *United States v. Marigold*, 9 How. 560.

⁷To establish post-offices and post-roads;

Pennsylvania v. The Wheeling and Belmont Bridge Company, 18 How. 421; *Ex parte Jackson*, 96 U. S. 727; *In re Rapier*, 143 U. S. 110.

⁸To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

Grant v. Raymond, 6 Pet. 218; *Wheaton v. Peters*, 8 Pet. 591; *McClurg v. Kingsland*, 1 How. 202; *Brooks v. Fiske*, 15 How. 212; *Patterson v. Kentucky*, 97 U. S. 501; *Trade Mark Cases*, 100 U. S. 82.

⁹To constitute tribunals inferior to the supreme court;

Chisholm v. Georgia, 2 Dall. 419; American Insurance Company v. Canter, 1 Pet. 511; Leitensdorfer v. Webb, 20 How. 176; United States v. Union Pacific Railroad Company, 98 U. S. 569.

¹⁰To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

United States v. Palmer, 3 Wh. 610; United States v. Wiltberger, 5 Wh. 76; United States v. Smith, 5 Wh. 153; United States v. Pirates, 5 Wh. 184.

¹¹To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

Brown v. United States, 8 Cr. 110; American Insurance Company v. Canter (356 bales cotton), 1 Pet. 511; Mrs. Alexander's cotton, 2 Wall. 404; Miller v. United States, 11 Wall. 268; Tyler v. Defrees, 11 Wall. 331; Stewart v. Kahn, 11 Wall. 493; Hamilton v. Dillin, 21 Wall. 73; Lamar, ex., v. Brown et al., 92 U. S. 187.

¹²To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

Crandall v. State of Nevada, 6 Wall. 35; Coleman v. Tennessee, 97 U. S. 509; Presse v. Illinois, 116 U. S. 252.

¹³To provide and maintain a navy;

United States v. Bevans, 3 Wh. 336; Dynes v. Hoover, 20 How. 65.

¹⁴To make rules for the government and regulation of the land and naval forces;

Coleman v. Tennessee, 97 U. S. 509.

¹⁵To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

Houston v. Moore, 5 Wh. 1; Martin v. Mott, 12 Wh. 19; Luther v. Borden, 7 How. 1; Crandall v. State of Nevada, 6 Wall. 35; Texas v. White, 7 Wall. 700; Presser v. Illinois, 116 U. S. 252.

¹⁶To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress;

Houston v. Moore, 5 Wh. 1; Martin v. Mott, 12 Wh. 19; Luther v. Borden, 7 How. 1; Presser v. Illinois, 116 U. S. 252.

¹⁷To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings;—And

Hepburn v. Ellzey, 2 Cr. 444; Loughborough v. Blake, 5 Wh. 317; Cohens v. Virginia, 6 Wh. 264; American Insurance Company v. Canter (356 bales cotton), 1 Pet. 511; Kendall, Postmaster-General v. The United States, 12 Pet. 524; United States v. Dewitt, 9 Wall. 41; Dunphy v. Kleinsmith, 11 Wall. 610; Willard v. Presbury, 14 Wall. 676; Phillips v. Payne, 92 U. S. 130; United States v. Fox, 94 U. S. 315; Mattingly v. District of Columbia, 97 U. S. 687; National Bank v. Yankton county, 101 U. S. 129.

¹⁸To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

McCulloch v. Maryland, 4 Wh. 316; *Wayman v. Southard*, 10 Wh. 1; *Bank of United States v. Halstead*, 10 Wh. 51; *Hepburn v. Griswold*, 8 Wall. 603; *National Bank v. Commonwealth*, 9 Wall. 353; *Thomson v. Pacific Railroad*, 9 Wall. 579; *Parker v. Davis*, 12 Wall. 457; *Railroad Company v. Johnson*, 15 Wall. 195; *Railroad Company v. Peniston*, 18 Wall. 5; *United States v. Hall*, 98 U. S. 343; *Legal Tender Case*, 110 U. S. 421; *Presser v. Illinois*, 116 U. S. 252.

SECTION 9. ¹The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

“*Josefa Segunda*,” 5 Wh. 338; “*The Emily*,” 9 Wh. 381; “*The Merino*,” 9 Wh. 391; “*The Antelope*,” 10 Wh. 66; *United States v. Gooding*, 12 Wh. 460; *United States v. Preston*, 3 Pet. 57; *United States v. Skiddy*, 11 Pet. 73; *United States v. Morris*, 14 Pet. 464; *Dred Scott v. Sanford*, 19 How. 393; *People v. Compagnie*, 107 U. S. 59; *Morgan v. Louisiana*, 118 U. S. 455.

²The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

United States v. Hamilton, 3 Dall. 17; *Hepburn v. Ellzey*, 2 Cr. 445; *Ex parte Bollman*, 4 Cr. 75; *Ex parte Kearney*, 7 Wh. 38; *Ex parte Watkins*, 3 Pet. 192; *Ex parte Millburn*, 9 Pet. 704; *Holmes v. Jennison*, 14 Pet. 540; *Ex parte Dorr*, 3 How. 103; *Luther v. Borden*, 7 How. 1; *Ableman v. Booth and United States v. Booth*, 21 How. 506; *Ex parte Vallandigham*, 1 Wall. 243; *Ex parte Mulligan*, 4 Wall. 2; *Ex parte McCardle*, 7 Wall. 506; *Ex parte Yerger*, 8 Wall. 85; *Tarble’s case*, 13 Wall. 397; *Ex parte Lange*, 18 Wall. 163; *Ex parte Parks*, 93 U. S. 18; *Ex parte Karstendick*, 93 U. S. 396; *Ex parte Virginia*, 100 U. S. 339.

³No bill of attainder or ex post facto law shall be passed.

Fletcher v. Peck, 6 Cr. 87; *Ogden v. Saunders*, 12 Wh. 213; *Watson v. Mercer*, 8 Pet. 88; *Carpenter et al. v. Pennsylvania*, 17 How. 456; *Locke v. New Orleans*, 4 Wall. 172; *Cummings v. Missouri*, 4 Wall. 277; *Ex parte Garland*, 4 Wall. 333; *Drehman v. Stifle*, 8 Wall. 595; *Klinger v. Missouri*, 13 Wall. 257; *Pierce v. Carskadon*, 16 Wall. 234; *United States v. Fox*, 95 U. S. 670; *Kring v. Missouri*, 107 U. S. 221; *In re Sawyer*, 124 U. S. 200; *In re Medley*, 134 U. S. 160.

⁴No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

Loughborough v. Blake, 5 Wh. 317; *License Tax Cases*, 5 Wall. 462; *Pacific Ins. Co. v. Soule*, 7 Wall. 433; *Veazie Bank v. Fenno*, 8 Wall. 533; *Buffington v. Day*, 11 Wall. 113; *United States v. Baltimore & Ohio R. Co.*, 17 Wall. 322; *Springer v. United States*, 102 U. S. 586; *Income Tax Cases*, 157 U. S. 429; 158 U. S. 601.

⁵No tax or duty shall be laid on articles exported from any state.

Cooley v. Board of Wardens, 12 How. 299; *Page v. Burgess*, 92 U. S. 372; *Turpin v. Burgess*, 117 U. S. 504.

⁶No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another: nor shall ves-

sels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

Cooley v. Board of Wardens, 12 How. 299; Pennsylvania v. Wheeling and Belmont Bridge Company et al., 18 How. 421; Munn v. Illinois, 94 U. S. 113; Packet Co. v. St. Louis, 100 U. S. 423; Packet Co. v. Catlettsburg, 105 U. S. 559.

⁷No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

⁸No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

SECTION 10. ¹No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit;^a make any thing but gold and silver coin a tender in payment of debts; pass any bill of attained, ex post facto law,^b or law impairing the obligations of contracts,^c or grant any title of nobility.

^bCalder v. Bull, 3 Dall. 386; ^cFletcher v. Peck, 6 Cr. 87; ^cNew Jersey v. Wilson, 7 Cr. 164; ^cSturgis v. Crowningshield, 4 Wh. 122; ^cMcMillan v. McNeil, 4 Wh. 209; ^cDartmouth College v. Woodward, 4 Wh. 518; ^cOwings v. Speed, 5 Wh. 420; ^cFarmers' and Mechanics' Bank v. Smith, 6 Wh. 131; ^cGreen et al. v. Biddle, 8 Wh. 1; ^cOgden v. Saunders, 12 Wh. 213; ^cMason v. Haile, 12 Wh. 370; ^cSatterlee v. Matthewson, 2 Pet. 380; ^cHart v. Lamphire, 3 Pet. 280; ^aCraig v. State of Missouri, 4 Pet. 410; ^cProvidence Bank v. Billings and Pitman, 4 Pet. 514; ^aByrne v. State of Missouri, 8 Pet. 40; ^bWatson v. Mercer, 8 Pet. 88; ^cMumma v. Potomac Company, 8 Pet. 281; ^cBeers v. Haughton, 9 Pet. 329; ^aBriseoe v. The Bank of Kentucky, 11 Pet. 257; ^cThe Proprietors of Charles River Bridge v. The Proprietors of Warren Bridge, 11 Pet. 420; ^cArmstrong v. The Treasurer of Athens County, 16 Pet. 281; ^cBronson v. Kinzie, 1 How. 311; ^cMcCracken v. Hayward, 2 How. 608; ^cGordon v. Appeal Tax Court, 3 How. 133; ^cMaryland v. Baltimore and Ohio R. R. Co., 3 How. 534; ^cNeil, Moore & Co. v. Ohio, 3 How. 720; ^cCook v. Moffatt, 5 How. 295; ^cPlanters' Bank v. Sharp, 96 How. 301; ^cWest River Bridge Company v. Dix, 6 How. 507; ^cCrawford v. Branch Bank of Mobile, 7 How. 279; ^cWoodruff v. Trapnall, 10 How. 190; ^cPaup v. Drew, 10 How. 218; ^{b,c}Baltimore and Susquehanna R. R. Co. v. Nesbitt, 10 How. 395; ^cButler v. Pennsylvania, 10 How. 402; ^aDarrington v. Bank of Alabama, 13 How. 12; ^cRichmond, &c., R. R. Co. v. The Louise R. R. Co., 13 How. 71; ^cTrustees for Vincennes University v. Indiana, 14 How. 268; ^cCurran v. Arkansas, et al., 15 How. 304; ^cBank of Ohio v. Knoop, 16 How. 369; ^bCarpenter v. Pennsylvania, 17 How. 456; ^cDodge v. Woolsey, 18 How. 331; ^cBeers v. Arkansas, 20 How. 527; ^cAspinwall v. Commissioners of County of Daviess, 22 How. 364; ^cRector of Christ Church, Philadelphia, v. County of Philadelphia, 24 How. 300; ^cHoward v. Bugbee, 24 How. 461; ^cJefferson Branch Bank v. Skelley, 1 Black 436; ^cFranklin Branch Bank v. State of Ohio, 1 Black 474; ^cTrustees of the Wabash and Erie Canal Company v. Beers, 2 Black 448; ^cGilman v. City of Sheboygan, 2 Black 510; ^cBridge Proprietors v. Hoboken Company, 1 Wall. 116; ^cHawthorne v. Calef, 2 Wall. 10; ^cThe Binghamton Bridge, 3 Wall. 51; ^cThe Turnpike Company v. The State, 3 Wall. 210; ^bLocke v. City of New Orleans, 4 Wall. 172; ^cRailroad Company v. Rock, 4 Wall. 177; ^cCummings v. State of Missouri, 4 Wall. 277; ^bEx parte Garland, 4 Wall. 333; ^cVon Hoffman v. City of Quincy, 4 Wall. 535; ^cMulligan v. Corbin, 7 Wall. 487; ^cFarman v. Nichol, 8 Wall. 44; ^cHome of the Friendless v. Rouse, 8 Wall. 430; ^cThe Washington University v. Rouse, 8 Wall. 439; ^cButz v. City of Muscatine, 8 Wall. 575; ^cDrehman v. Stife, 8 Wall. 595; ^cHepburn v. Griswold, 8 Wall. 603; ^bGut v. The State, 9 Wall. 35; ^cRailroad Company v. McClure, 10 Wall. 511; ^cParker v. Davis, 12 Wall. 457; ^cCurtis v. Whiting, 13 Wall. 68; ^cPennsylvania College Cases, 13 Wall. 190; ^cWilmington R. R. v. Reid, sheriff, 13 Wall. 264; ^cSalt Company v. East Saginaw, 13 Wall. 373; ^cWhite v. Hart, 13 Wall. 646; ^cOsborn v. Nicholson et al., 13 Wall. 654; ^cRailroad Company v. Johnson, 15 Wall. 195; ^cCase of the State tax on foreign-held

bonds, 15 Wall. 300; *cTomlinson v. Jessup*, 15 Wall. 454; *cTomlinson v. Branch*, 15 Wall. 460; *cMiller v. The State*, 15 Wall. 478; *cHolyoke Company v. Lyman*, 15 Wall. 500; *cGunn v. Barry*, 15 Wall. 610; *cHumphrey v. Pegues*, 16 Wall. 244; *cWalker v. Whitehead*, 16 Wall. 314; *cSohn v. Waterson*, 17 Wall. 596; *cBarings v. Dabney*, 19 Wall. 1; *cHead v. The University*, 19 Wall. 526; *cPacific R. R. Co. v. Maguire*, 20 Wall. 36; *cGarrison v. The City of New York*, 21 Wall. 196; *cOchiltree v. The Railroad Company*, 21 Wall. 249; *cWilmington, &c., Railroad v. King*, 91 U. S. 3; *cCounty of Moultrie v. Rockingham Ten Cent Savings Bank*, 92 U. S. 631; *cHome Insurance Company v. City Council of Augusta*, 93 U. S. 116; *cWest Wisconsin R. R. Co. v. Supervisors*, 93 U. S. 595; *Farrington v. Tennessee*, 95 U. S. 679; *Murray v. Charleston*, 96 U. S. 432; *Edwards v. Kearzey*, 96 U. S. 595; *Keith v. Clark*, 97 U. S. 454; *Railroad Co. v. Georgia*, 98 U. S. 359; *Newton v. Commissioners*, 100 U. S. 548; *Railroad Co. v. Tennessee*, 101 U. S. 337; *Wright v. Nagle*, 101 U. S. 791; *Stone v. Mississippi*, 101 U. S. 814; *Railroad Co. v. Alabama*, 101 U. S. 832; *Louisiana v. New Orleans*, 102 U. S. 203; *Hall v. Wisconsin*, 103 U. S. 5; *Pennyman's case*, 103 U. S. 714; *Greenwood v. Freight Co.*, 105 U. S. 13; *Guaranty Cov. Board of Liquidation*, 105 U. S. 622; *Kring v. Missouri*, 107 U. S. 221; *Louisiana v. New Orleans*, 109 U. S. 285; *Gillfillan v. Union Canal Co.*, 109 U. S. 407; *Hopt v. Utah*, 110 U. S. 574; *Spring Valley Water Wks. v. Schottler*, 110 U. S. 347; *Nelson v. St. Martin's Parish*, 111 U. S. 716; *Mobile v. Watson*, 116 U. S. 289; *Church v. Kelsey*, 121 U. S. 282; *Freeland v. Williams*, 131 U. S. 405; *McGahey v. Virginia*, 135 U. S. 662; *Essex Road Board v. Skinkle*, 140 U. S. 334; *Mobile & Ohio R. Co. v. Tennessee*, 153 U. S. 486; *City and Lake R. Co. v. New Orleans*, 157 U. S. 219; *Bank of Commerce v. Tennessee*, 161 U. S. 134; *Baltzer v. North Carolina*, 161 U. S. 240; *Barnitz v. Beverly*, 163 U. S. 118; *Hanford v. Davies*, 163 U. S. 273; *St. Louis, etc., Ry. Co. v. Mathews*, 165 U. S. 1.

²No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress.

McCulloch v. Maryland, 4 Wh. 316; *Gibbons v. Ogden*, 9 Wh. 1; *Brown v. Maryland*, 12 Wh. 419; *Magor v. Grima*, 8 How. 490; *Cooley v. Board of Wardens*, 12 How. 299; *Almy v. California*, 24 How. 169; *License Tax Cases*, 5 Wall. 462; *Crandall v. Nevada*, 6 Wall. 35; *Waring v. The Mayor*, 8 Wall. 110; *Woodruff v. Parham*, 8 Wall. 123; *Hinson v. Lott*, 8 Wall. 148; *State Tonnage Tax Cases*, 12 Wall. 204; *State tax on railway gross receipts*, 15 Wall. 284; *Welton v. Missouri*, 91 U. S. 275; *Inman Steamship Co. v. Tinker*, 94 U. S. 238; *Packet Co. v. Keokuk*, 95 U. S. 80; *Cook v. Pennsylvania*, 97 U. S. 566; *Guy v. Baltimore*, 100 U. S. 434; *Machine Co. v. Gage*, 100 U. S. 676; *Turner v. Maryland*, 107 U. S. 38; *People v. Compagnie General Transatlantique*, 107 U. S. 59; *Brown v. Houston*, 114 U. S. 622.

³No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

Green v. Biddle, 8 Wh. 1; *Poole v. The Lessee of Fleecker*, 11 Pet. 185; *Holmes v. Jennison*, 14 Pet. 540; *Cooley v. Board of Wardens*, 12 How. 299; *Steamship Co. v. Port Warden*, 6 Wall. 31; *State Tonnage Tax Cases*, 12 Wall. 204; *Peete v. Morgan*, 19 Wall. 581; *Cannon v. New Orleans*, 20 Wall. 577; *Inman Steamship Co. v. Tinker*, 94 U. S. 238; *Packet Co. v. Keokuk*, 95 U. S. 80; *Transportation Co. v. Wheeling*, 99 U. S. 273; *Packet Co. v. St. Louis*, 100 U. S. 425; *Vicksburg v. Tobin*, 100 U. S. 430; *Packet Co. v. Catlettsburg*, 105 U. S. 559; *Transportation Co. v. Parkersburg*, 107 U. S. 691; *Presser v. Illinois*, 116 U. S. 252; *Huse v. Glover*, 119 U. S. 543; *Sands v. Manistee Imp. Co.*, 123 U. S. 288; *Harmon v. Chicago*, 147 U. S. 396.

ARTICLE II.

SECTION 1. ¹The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected, as follows:

²Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress: but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

Chisholm v. Georgia, 2 Dall. 419; *Leitensdorfer v. Webb*, 20 How. 176; *Ex parte Siebold*, 100 U. S. 271; *McPherson v. Blacker*, 146 U. S. 1.

["The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice-president."']

This clause has been superseded by the twelfth amendment.

³The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

⁴No person except a natural-born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

English v. The Trustees of the Sailors' Snug Harbor, 3 Pet. 99.

⁵In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may by law provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

⁶The president shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the

period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

⁷Before he enter on the execution of his office, he shall take the following oath or affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States."

Mississippi v. Johnson, 4 Wall. 475.

SECTION 2. ¹The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

United States v. Wilson, 7 Pet. 150; *Ex parte William Wells*, 18 How. 307; *Ex parte Garland*, 4 Wall. 333; *Armstrong's Foundry*, 6 Wall. 766; *The Grape Shot*, 9 Wall. 129; *United States v. Padelford*, 9 Wall. 542; *United States v. Klein*, 13 Wall. 128; *Armstrong v. The United States*, 13 Wall. 152; *Pargoud v. The United States*, 13 Wall. 156; *Hamilton v. Dillin*, 21 Wall. 73; *Mechanics and Traders' Bank v. Union Bank*, 22 Wall. 276; *Lamar, ex., v. Brown et al.*, 92 U. S. 187; *Wallach et al. v. Van Riewick*, 92 U. S. 202; *Young v. United States*, 97 U. S. 39.

²He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

Ware v. Hylton, 3 Dall. 199; *Marbury v. Madison*, 1 Cr. 137; *United States v. Kirkpatrick*, 9 Wh. 720; *American Insurance Company v. Canter* (356 bales cotton), 1 Pet. 511; *Foster and Elam v. Neilson*, 2 Pet. 253; *Cherokee Nation v. Georgia*, 5 Pet. 1; *Patterson v. Gwinn et al.*, 5 Pet. 233; *Worcester v. State of Georgia*, 6 Pet. 515; *City of New Orleans v. De Armas et al.*, 9 Pet. 224; *Holden v. Joy*, 17 Wall. 211; *Mimmack v. United States*, 97 U. S. 426; *United States v. Germaine*, 99 U. S. 508; *Ex parte Siebold*, 100 U. S. 371; *Ex parte Clarke*, 100 U. S. 399; *McPherson v. Blacker*, 146 U. S. 1.

³The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

The United States v. Kirkpatrick et al., 9 Wh. 720.

SECTION 3. He shall from time to time give to the congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may,

on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Marbury v. Madison, 1 Cr. 137; *Kendall, Postmaster-General, v. The United States*, 12 Pet. 524; *Luther v. Borden*, 7 How. 1; *The State of Mississippi v. Johnson, President*, 4 Wall. 475; *Stewart v. Kahn*, 11 Wall. 493.

SECTION 4. The president, vice-president and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION 1. The judicial power of the United States, shall be vested in one supreme court, and in such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Chisholm, ex. v. Georgia, 2 Dall. 419; *Stuart v. Laird*, 1 Cr. 299; *United States v. Peters*, 5 Cr. 115; *Cohens v. Virginia*, 6 Cr. 264; *Martin v. Hunter's Lessee*, 1 Wh. 304; *Osborn v. United States Bank*, 9 Wh. 738; *Benner et al. v. Porter*, 9 How. 235; *The United States v. Ritchie*, 17 How. 525; *Murray's Lessee et al. v. Hoboken Land and Improvement Company*, 18 How. 272; *Ex parte Vallandigham*, 1 Wall. 243; *United States v. Union Pacific R. Co.*, 98 U. S. 569; *Ames v. Kansas*, 111 U. S. 449.

SECTION 2. ¹The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers and consuls;—to all cases of admiralty and maritime jurisdiction;—to controversies to which the United States shall be a party;—to controversies between two or more states;—between a state and citizens of another state;—between citizens of different states;—between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

Hayburn's case (note), 2 Dall. 410; *Chisholm v. Georgia*, 2 Dall. 419; *Glass et al. v. Sloop Betsey*, 3 Dall. 6; *United States v. La Vengeance*, 3 Dall. 297; *Hollingsworth v. Virginia*, 3 Dall. 378; *Mossman v. Higginson*, 4 Dall. 12; *Marbury v. Madison*, 1 Cr. 137; *Hepburn et al. v. Ellezley*, 2 Cr. 444; *United States v. Moore*, 3 Cr. 159; *Strawbridge et al. v. Curtis*, 3 Cr. 267; *Ex parte Bollman*, 4 Cr. 75; *Rose v. Himely*, 4 Cr. 241; *Chappelaine v. Dechenaux*, 4 Cr. 305; *Hope Insurance Company v. Boardman*, 5 Cr. 57; *Bank of the United States v. Devaux*, 5 Cr. 61; *Hodgson v. Bowerbank*, 5 Cr. 303; *Owings v. Norwood's Lessee*, 5 Cr. 344; *Durousseau v. The United States*, 6 Cr. 307; *United States v. Hudson and Goodwin*, 7 Cr. 32; *Martin v. Hunter*, 1 Wh. 304; *Colson v. Lewis*, 2 Wh. 377; *United States v. Bevans*, 3 Wh. 336; *Cohens v. Virginia*, 6 Wh. 264; *Ex parte Kearney*, 7 Wh. 38; *Matthews v. Zane*, 7 Wh. 164; *Osborn v. United States Bank*, 9 Wh. 738; *United States v. Ortega*, 11 Wh. 467; *American Insurance*

Company v. Canter (356 bales cotton), 1 Pet. 511; Jackson v. Twentyman, 2 Pet. 136; Cherokee Nation v. Georgia, 5 Pet. 1; New Jersey v. New York, 5 Pet. 283; Davis v. Packard, 6 Pet. 41; United States v. Arredondo, 6 Pet. 691; Davis v. Packard, 7 Pet. 276; Breedlove v. Nicolet, 7 Pet. 413; Brown v. Keene, 8 Pet. 112; Davis v. Packard, 8 Pet. 312; City of New Orleans v. De Armas, 9 Pet. 224; Rhode Island v. Massachusetts, 12 Pet. 657; The Bank of Augusta v. Earle, 13 Pet. 519; The Commercial and Railroad Bank of Vicksburg v. Slocomb, 14 Pet. 60; Suydam v. Broadnax, 14 Pet. 67; Prigg v. Pennsylvania, 16 Pet. 539; Louisville, Cincinnati and Charleston Railway Co. v. Letson, 2 How. 497; Cary v. Curtis, 3 How. 236; Warring v. Clark, 5 How. 441; Luther v. Borden, 7 How. 1; Sheldon v. Sill, 8 How. 441; The Propeller Genessee Chief v. Fitzhugh, 12 How. 443; Fretz v. Ball, 12 How. 466; Neves v. Scott et al., 13 How. 268; Pennsylvania v. The Wheeling, etc., Bridge Company, 13 How. 518; Marshall v. The Baltimore and Ohio R. Co., 16 How. 314; The United States v. Guthrie, 17 How. 284; Smith v. Maryland, 18 How. 71; Jones v. League, 18 How. 76; Murray's Lessee v. Hoboken Land and Improvement Company, 18 How. 272; Hyde v. Stone, 20 How. 170; Irvine v. Marshall, 20 How. 558; Fenn v. Holmes, 21 How. 481; Moorewood v. Erequist, 23 How. 491; Kentucky v. Dennison, Governor, 24 How. 66; Ohio and Mississippi Railroad Company v. Wheeler, 1 Black 286; The Steamer Saint Lawrence, 1 Black 522; The Propeller Commerce, 1 Black 574; Ex parte Vallandigham, 1 Wall. 243; Ex parte Milligan, 4 Wall. 1; The Moses Taylor, 4 Wall. 411; Mississippi v. Johnson, President, 4 Wall. 475; The Hine v. Trevor, 4 Wall. 555; City of Philadelphia v. The Collector, 5 Wall. 720; Georgia v. Stanton, 6 Wall. 50; Payne v. Hook, 7 Wall. 425; The Alicia, 7 Wall. 571; Ex parte Yerger, 8 Wall. 85; Insurance Company v. Dunham, 11 Wall. 1; Virginia v. West Virginia, 11 Wall. 39; Coal Company v. Blatchford, 11 Wall. 172; Railway Company v. Whitton's adm., 13 Wall. 270; Tarble's Case, 13 Wall. 397; Blyew v. The United States, 13 Wall. 581; Davis v. Gray, 16 Wall. 203; Case of the Sewing Machine Companies, 18 Wall. 553; Insurance Company v. Morse, 20 Wall. 445; Vannevar v. Bryant, 21 Wall. 41; The Lottawanna, 21 Wall. 558; Gaines v. Fuentes, 92 U. S. 10; Miller v. Dows, 94 U. S. 444; Doyle v. Continental Insurance Company, 94 U. S. 535; United States v. Union Pacific R. Co., 98 U. S. 569; United States v. Winchester, 99 U. S. 372; Tennessee v. Davis, 100 U. S. 257; The City of Panamá, 101 U. S. 453; Ex parte Boyd, 105 U. S. 647; New Hampshire v. Louisiana, 108 U. S. 76; Wisconsin v. Pelican Ins. Co., 127 U. S. 265; Eilenbecker v. Plymouth County, 134 U. S. 31; Cook v. United States, 138 U. S. 157.

²In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the congress shall make.

Chisholm v. Georgia, 2 Dall. 419; Wiscart v. Dauchy, 3 Dall. 321; Marbury v. Madison, 1 Cr. 137; Durosseau v. United States, 6 Cr. 307; Martin v. Hunter's Lessee, 1 Wh. 304; Cohens v. Virginia, 6 Wh. 264; Ex parte Kearney, 7 Wh. 38; Wayman v. Southard, 10 Wh. 1; Bank of the United States v. Halstead, 10 Wh. 51; United States v. Ortega, 11 Wh. 467; The Cherokee Nation v. Georgia, 5 Pet. 1; Ex parte Crane, 5 Pet. 189; New Jersey v. New York, 5 Pet. 283; Ex parte Sibbald v. United States, 12 Pet. 488; Rhode Island v. Massachusetts, 12 Pet. 657; Pennsylvania v. The Wheeling etc., Bridge Co., 13 How. 518; In re Kaine, 14 How. 103; Ableman v. Booth and United States v. Booth, 21 How. 506; Freeborn v. Smith, 2 Wall. 160; Ex parte McCardle, 6 Wall. 318; Ex parte McCardle, 7 Wall. 506; Ex parte Yerger, 8 Wall. 85; The Lucy, 8 Wall. 307; The Justices v. Murray, 9 Wall. 274; Pennsylvania v. Quicksilver Company, 10 Wall. 553; Murdock v. City of Memphis, 20 Wall. 590; Ex parte Siebold, 100 U. S. 371; Ex parte Clarke, 100 U. S. 399; Bors v. Preston, 111 U. S. 252; Ames v. Kansas, 111 U. S. 449.

³The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state,

the trial shall be at such place or places as the congress may by law have directed.

Ex parte Milligan, 4 Wall. 2; *Smith v. Alabama*, 124 U. S. 465; *Nashville, Chattanooga and St. L. R. Co. v. Alabama*, 128 U. S. 96; *Eilenbecker v. Plymouth County*, 134 U. S. 31.

SECTION 3. ¹Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

United States v. The Insurgents, 2 Dall. 335; *United States v. Mitchell*, 2 Dall. 348; *Ex parte Bollman*, 4 Cr. 75; *United States v. Aaron Burr*, 4 Cr. 469; *Young v. United States*, 97 U. S. 39.

²The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

Bigelow v. Forest, 9 Wall. 339; *Day v. Micou*, 18 Wall. 156; *Ex parte Lange*, 18 Wall. 163; *Wallach v. Van Riwick*, 92 U. S. 202.

ARTICLE IV.

SECTION 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Mills v. Duryee, 7 Cr. 481; *Hampton v. McConnel*, 3 Wh. 234; *Mayhew v. Thatcher*, 6 Wh. 129; *Darby's Lessee v. Mayer*, 10 Wh. 465; *The United States v. Amedy*, 11 Wh. 392; *M'Elmoyle v. Cohen*, 13 Pet. 312; *Bank of Alabama v. Dalton*, 9 How. 522; *D'Arcy v. Ketchum*, 11 How. 165; *Christmas v. Russell*, 5 Wall. 290; *Green v. Van Baskirk*, 7 Wall. 139; *Board of Public Works v. Columbia College*, 17 Wall. 521; *Thompson v. Whitman*, 18 Wall. 457; *Pennoyer v. Neff*, 95 U. S. 714; *Insurance Company v. Harris*, 97 U. S. 331; *Robertson v. Piekrell*, 109 U. S. 608; *Hanley v. Doxohue*, 116 U. S. 1; *Freeman v. Alderson*, 119 U. S. 185; *Sugg v. Thornton*, 132 U. S. 524; *Cole v. Cunningham*, 133 U. S. 107; *Wilson v. Seligman*, 144 U. S. 41; *Huntington v. Attwill*, 146 U. S. 657; *Laing v. Bigney*, 160 U. S. 531.

SECTION 2. ¹The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

Bank of United States v. Deverenz, 5 Cr. 61; *Gassies v. Ballou*, 6 Pet. 761; *Rhode Island v. Massachusetts*, 12 Pet. 657; *The Bank of Augusta v. Earle*, 13 Pet. 519; *Moore v. Illinois*, 14 How. 13; *Conner v. Elliott*, 18 How. 591; *Dred Scott v. Sanford*, 19 How. 393; *Crandall v. Nevada*, 6 Wall. 35; *Woodruff v. Parham*, 8 Wall. 123; *Paul v. Virginia*, 8 Wall. 168; *Downham v. Alexandria Council*, 10 Wall. 173; *Liverpool Insurance Company v. Massachusetts*, 10 Wall. 566; *Ward v. Maryland*, 12 Wall. 418; *Slaughterhouse Cases*, 16 Wall. 36; *Bradwell v. The State*, 16 Wall. 130; *Chemung Bank v. Lowery*, 93 U. S. 72; *McCready v. Virginia*, 94 U. S. 391; *Guy v. Baltimore*, 100 U. S. 434; *Kirtland v. Hotchkiss*, 100 U. S. 491; *Ex parte Yarborough*, 110 U. S. 651; *United States v. Waddell*, 112 U. S. 76; *Brown v. Houston*, 114 U. S. 622; *Bowman v. Chicago, etc., Ry. Co.*, 115 U. S. 611; *Walling v. Michigan*, 116 U. S. 446; *Mugler v. Kansas*, 123 U. S. 623; *Pembina Mining Co. v. Pennsylvania*, 125 U. S. 181; *Virginia v. Paul*, 148 U. S. 107; *Giozza v. Tiernan*, 148 U. S. 657; *Miller v. Texas*, 153 U. S. 535; *McKane v. Durston*, 153 U. S. 684; *In re Lockwood*, 154 U. S. 116.

²A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

Holmes v. Jennison, 14 Pet. 540; In re Metzger, 5 How. 176; In re Kaine, 14 How. 103; Kentucky v. Dennison, 24 How. 66; Taylor v. Tainter, 16 Wall. 366; Mahon v. Justice, 127 U. S. 700.

³No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Prigg v. Pennsylvania, 16 Pet. 539; Jones v. Van Zandt, 5 How. 215; Strader v. Graham, 10 How. 82; Moore v. Illinois, 14 How. 13; Dred Scott v. Sanford, 19 How. 393; Ableman v. Booth and United States v. Booth, 21 How. 506; Freeborn v. Smith, 2 Wall. 160; National Bank v. County of Yankton, 101 U. S. 129; The City of Panama, 101 U. S. 453; Van Wick v. Knevals, 106 U. S. 360; United States v. Waddell, 112 U. S. 76; Fort Leavenworth R. Co. v. Lowe, 114 U. S. 525.

SECTION 3. ¹New states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the congress.

American Insurance Company v. Canter (356 bales cotton), 1 Pet. 511; Pollard's Lessee v. Hagan, 3 How. 212; Cross et al. v. Harrison, 16 How. 164.

²The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

McCulloch v. Maryland, 4 Wh. 316; American Insurance Company v. Canter, 1 Pet. 511; United States v. Gratiot et al., 14 Pet. 526; United States v. Rogers, 4 How. 567; Cross v. Harrison, 16 How. 164; Muckey v. Coxe, 18 How. 100; Gibson v. Chouteau, 13 Wall. 92; Clinton v. Englebert, 13 Wall. 434; Beall v. New Mexico, 16 Wall. 535; National Bank v. County of Yankton, 101 U. S. 129; The City of Panama, 101 U. S., 453; Van Wick v. Knevals, 106 U. S. 360; Fort Leavenworth R. Co. v. Lowe, 114 U. S. 525.

SECTION 4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

Luther v. Borden, 7 How. 1; Texas v. White, 7 Wall. 700.

ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress; Provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

¹All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

²This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

Hayburn's case, 2 Dall. 409; Ware v. Hylton, 3 Dall. 199; Calder v. Bull, 3 Dall. 386; Marbury v. Madison, 1 Cr. 137; Chirac v. Chirac, 2 Wh. 259; McCulloch v. Maryland, 4 Wh. 316; Society v. New Haven, 8 Wh. 464; Gibbons v. Ogden, 9 Wh. 1; Foster and Elam v. Neilson, 2 Pet. 253; Buckner v. Finley, 2 Pet. 586; Worcester v. Georgia, 6 Pet. 515; Kennett v. Chambers, 14 How. 38; Dodge v. Woolsey, 18 How. 331; New York v. Dibble, 21 How. 366; Ableman v. Booth and United States v. Booth, 21 How. 506; Sinnott v. Davenport, 22 How. 227; Foster v. Davenport, 22 How. 244; Haver v. Yaker, 9 Wall. 32; Hauenstein v. Lynham, 100 U. S. 483; Head Money Cases, 112 U. S. 580.

³The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Ex parte Garland, 4 Wall. 333.

ARTICLE VII.

The ratification of the conventions of nine states, shall be sufficient for the establishment of this constitution between the states so ratifying the same.

DONE in convention by the unanimous consent of the states present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven and of the independence of the United States of America the twelfth. *In Witness* whereof we have hereunto subscribed our names,

Go. WASHINGTON—
Presidt. and Deputy from Virginia.

New Hampshire.

JOHN LANGDON, NICHOLAS GILMAN.

Massachusetts.

NATHANIEL GORHAM, RUFUS KING.

Connecticut.

WM. SAML. JOHNSON, ROGER SHERMAN.

New York.

ALEXANDER HAMILTON.

New Jersey.

WIL: LIVINGSTON, WM. PATTERSON,
DAVID BREARLEY, JONA. DAYTON.

Pennsylvania.

B. FRANKLIN, THOMAS MIFFLIN,
ROBT. MORRIS, GEO: CLYMER,
THO: FITZSIMONS, JARED INGERSOLL,
JAMES WILSON, GOUV: MORRIS.

Delaware.

GEO: READ, GUNNING BEDFORD, JUN'T,
JOHN DICKINSON, RICHARD BASSETT.
JACO: BROOM,

Maryland.

JAMES M'HENRY, DAN: OF ST. THOS. JENIFER,
DANL CARROLL.

Virginia.

JOHN BLAIR, JAMES MADISON, JR.

North Carolina.

WM. BLOUNT, RICH'D DOBBS SPAIGHT,
HU. WILLIAMSON.

South Carolina.

J. RUTLEDGE, CHARLES COTESWORTH PINCKNEY,
CHARLES PINCKNEY, PIERCE BUTLER.

Georgia.

WILLIAM FEW, ABR. BALDWIN.

Attest:

WILLIAM JACKSON, *Secretary.*

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE
CONSTITUTION OF THE UNITED STATES OF AMERICA,
PROPOSED BY CONGRESS, AND RATIFIED BY THE LEG-
ISLATURES OF THE SEVERAL STATES PURSUANT TO
THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

[ARTICLE I.]*

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Terret v. Taylor, 9 Cr. 43; *Vidal v. Girard*, 2 How. 127; *Ex parte Garland*, 4 Wall. 333; *United States v. Cruikshank*, 92 U. S. 542; *Reynolds v. United States*, 98 U. S. 145; *Eilenbecker v. District Court of Plymouth County*, 134 U. S. 31; *In re Rapiet*, 143 U. S. 110.

[ARTICLE II.]

A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

United States v. Cruikshank, 92 U. S. 542; *Presser v. Illinois*, 116 U. S. 252; *Miller v. Texas*, 153 U. S. 535.

[ARTICLE III.]

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Eilenberger v. District Court, 134 U. S. 31.

[ARTICLE IV.]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Ex parte Burford, 3 Cr. 448; *The Caledonian*, 4 Wh. 100; *Smith v. Maryland*, 18 How. 71; *Murray v. Hoboken, etc., Co.*, 18 How. 272; *Ex parte Milligan*, 4 Wall. 2; *Boyd v. United States*, 116 U. S. 616; *Eilenbecker v. District Court*, 134 U. S. 31; *Fong Yue Ting v. United States*, 149 U. S. 698.

*The first ten amendments to the constitution of the United States were proposed to the legislatures of the several states by the first congress, on the 23th of September, 1789, the preamble reciting: "The conventions of a number of states having at the time of their adopting the constitution expressed a desire, in order to prevent misconstruction or abuse of its powers, that proper declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the government will best insure the beneficent ends of its creation—" (1 U. S. Stat. at Large, p. 97). They were ratified by the following States, and the notifications of ratification by the governors thereof were successively communicated by the president to congress: New Jersey, November 20, 1789; Maryland, December 19, 1789; North Carolina, December 22, 1789; South Carolina, January 19, 1790; New Hampshire, January 25, 1790; Delaware, January 28, 1790; Pennsylvania, March 10, 1790; New York, March 27, 1790; Rhode Island, June 15, 1790; Vermont, November 3, 1791, and Virginia, December 15, 1791. There is no evidence on the journals of congress that the legislatures of Connecticut, Georgia, and Massachusetts ratified them.

[ARTICLE V.]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

United States v. Perez, 9 Wh. 579; Barron v. The City of Baltimore, 7 Pet. 243; Fox v. Ohio, 5 How. 410; West River Bridge Company v. Dix, 6 How. 507; Mitchell v. Harmony, 13 How. 115; Moore v. Illinois, 14 How. 13; Murray's Lessee v. Hoboken Land and Improvement Company, 18 How. 272; Dynes v. Hoover, 20 How. 65; Withers v. Buckley, 20 How. 84; Gilman v. The City of Sheboygan, 2 Black 510; Ex parte Milligan, 4 Wall. 2; Twitchell v. The Commonwealth, 7 Wall. 321; Hepburn v. Griswold, 8 Wall. 603; Miller v. United States, 11 Wall. 268; Legal Tender Cases, 12 Wall. 457; Pumpelly v. Grenn Bay Company, 13 Wall. 166; Osborn v. Nicholson, 13 Wall. 654; Ex parte Lange, 18 Wall. 163; Kohl v. United States, 91 U. S. 367; Davidson v. New Orleans, 96 U. S. 97; Fox v. Cincinnati, 104 U. S. 783; United States v. Lee, 106 U. S. 196; United States v. Jones, 109 U. S. 513; Ex parte Wilson, 114 U. S. 417; Boyd v. United States, 116 U. S. 616; Ex parte Bain, 121 U. S. 1; Parkinson v. United States, 121 U. S. 281; Nashville, Chattanooga & St. Louis Ry. v. Alabama, 128 U. S. 96; Eilenbecker v. District Court, 134 U. S. 31; In re Ross, 140 U. S. 453; New Orleans v. Tater Works Co., 142 U. S. 79; McElvaine v. Brush, 142 U. S. 155; Counselman v. Hitchcock, 142 U. S. 547; Thorington v. Montgomery, 147 U. S. 490; McKane v. Durston, 153 U. S. 684; Raegan v. Farmers' Loan & Trust Co., 154 U. S. 362; Pittsburgh Ry. Co. v. Backus, 154 U. S. 421; United States v. Zucker, 161 U. S. 475; Fallbrook Irrigation Dist. v. Bradley, 164 U. S. 112.

[ARTICLE VI.]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

United States v. Coledge, 1 Wh. 415; Ex parte Kearney, 7 Wh. 38; United States v. Mills, 7 Pet. 142; Barron v. City of Baltimore, 7 Pet. 243; Fox v. Ohio, 5 How. 410; Withers v. Buckley, 20 How. 84; Ex parte Milligan, 4 Wall. 2; Twitchell v. The Commonwealth, 7 Wall. 321; Miller v. The United States, 11 Wall. 268; United States v. Cook, 17 Wall. 168; United States v. Cruikshank et al., 92 U. S. 542; Reynolds v. United States, 98 U. S. 143; Eilenbecker v. District Court, 143 U. S. 31; McElvaine v. Brush, 142 U. S. 155; Mattox v. United States, 156 U. S. 237; Rosen v. United States, 161 U. S. 29; United States v. Zucker, 161 U. S. 475; Brown v. Walker, 161 U. S. 591.

[ARTICLE VII.]

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no

fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

United States v. La Vengeance, 3 Dall. 297; Bank of Columbia v. Oakley, 4 Wh. 235; Parsons v. Bedford, 3 Pet. 433; Lessee of Livingston v. Moore, 7 Pet. 469; Webster v. Reid, 11 How. 437; Pennsylvania v. The Wheeling, etc., Bridge Company et al., 13 How. 518; The Justices v. Murray, 9 Wall. 274; Edwards v. Elliott, 21 Wall. 532; Pearson v. Yewdall, 95 U. S. 294; McElrath v. United States, 102 U. S. 426; Arkansas Valley, etc., Co. v. Mann, 130 U. S. 69; Eilenbecker v. District Court, 134 U. S. 31; Coughran v. Bigelow, 164 U. S. 301.

[ARTICLE VIII.]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Pervear v. Commonwealth, 5 Wall. 475; Wilkerson v. Utah, 99 U. S. 130; Eilenbecker v. District Court, 134 U. S. 31; In re Kemmler, 136 U. S. 436; McElvaine v. Brush, 142 U. S. 155; O'Neil v. Vermont, 144 U. S. 323; Fong Yue Ting v. United States, 149 U. S. 698.

[ARTICLE IX.]

The enumeration in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Lessee of Livingston v. Moore et al., 7 Pet. 469.

[ARTICLE X.]

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Chisholm v. Georgia, 2 Dall. 419; Hollingsworth v. Virginia, 3 Dall. 378; Martin v. Hunter's Lessee, 1 Wh. 304; McCulloch v. Maryland, 4 Wh. 316; Anderson v. Dunn, 6 Wh. 204; Cohens v. Virginia, 6 Wh. 264; Osborn v. United States Bank, 9 Wh. 738; Buchler v. Finley, 2 Pet. 586; Ableman v. Booth, 21 How. 506; The Collector v. Day, 11 Wall. 113; Claffin v. Houseman, 93 U. S. 130; Inman Steamship Company v. Tinker, 94 U. S. 238; United States v. Harris, 106 U. S. 629; Manchester v. Massachusetts, 139 U. S. 24; Ex parte Rapier, 143 U. S. 110.

ARTICLE XI.*

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

Georgia v. Brailsford et al., 2 Dall. 402; Chisholm v. Georgia, 2 Dall. 419; Hollingsworth v. Virginia, 3 Dall. 378; Cohen v. Virginia, 6 Wh. 264; Osborn v. United States Bank, 9 Wh. 738; United States v. The Planters' Bank, 9 Wh. 904; Georgia v. Juan Madrazo, 1 Pet. 110; Cherokee Nation v. Georgia, 5 Pet. 1; Briscoe v. The Bank of Kentucky, 11 Pet. 257; Curran v. Arkansas et al., 15 How. 304; New Hampshire v. Louisiana, 108 U. S. 76; Clark v. Barnard, 108 U. S. 436; Poindexter v. Greenhow, 114 U. S. 270; Hagood v. Southern, 117 U. S. 52; Scott v. Donald, 165 U. S. 58, 107.

*The eleventh amendment of the constitution of the United States was proposed to the legislatures of the several states by the third congress, on the 5th September, 1794; and was declared in a message from the president to congress, dated the 8th of January, 1798, to have been ratified by the legislatures of three-fourths of the states.

ARTICLE XII.*

The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate;—The president of the senate shall, in presence of the senate and house of representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president. The person having the greatest number of votes as vice-president, shall be the vice president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.

ARTICLE XIII.†

SECTION 1. Neither slavery nor involuntary servitude, except as a

*The twelfth amendment to the constitution of the United States was proposed to the legislatures of the several states by the eighth congress, on the 12th of December, 1803, in lieu of the original third paragraph of the first section of the second article: and was declared in a proclamation of the secretary of state, dated the 25th of September, 1804, to have been ratified by the legislatures of three-fourths of the states.

†The thirteenth amendment to the constitution of the United States was proposed to the legislatures of the several states by the thirty-eighth congress, on the 1st of February, 1865, and was declared in a proclamation of the secretary of state, dated the 18th of December, 1865, to have been ratified by the legislatures of twenty-seven of the thirty-six states, viz.: Illinois, Rhode Island, Michigan, Maryland, New York, West Virginia, Maine, Kansas, Massachusetts, Pennsylvania, Virginia, Ohio, Missouri, Nevada, Indiana, Louisiana, Minnesota, Wisconsin, Vermont, Tennessee, Arkansas, Connecticut, New Hampshire, South Carolina, Alabama, North Carolina, and Georgia.

punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

Dred Scott v. Sanford, 19 How. 393; *White v. Hart*, 13 Wall. 646; *Osborn v. Nicholson*, 13 Wall. 654; *Slaughterhouse Cases*, 16 Wall. 36; *Ex parte Virginia*, 100 U. S. 339; *Civil Rights Case*, 109 U. S. 3; *Slaughterhouse Cases*, 16 Wall. 36; *United States v. Harris*, 106 U. S. 629; *Plessy v. Ferguson*, 163 U. S. 537; *Adams Express Company v. Ohio*, 165 U. S. 194.

ARTICLE XIV.*

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Slaughterhouse Cases, 16 Wall. 36; *Bartenev v. Iowa*, 18 Wall. 129; *Minor v. Happersett*, 21 Wall. 162; *Walker v. Stuvinet*, 92 U. S. 90; *Kennard v. Louisiana*, 92 U. S. 490; *United States v. Cruikshank*, 92 U. S. 542; *Munn v. Illinois*, 94 U. S. 113; *McMillan v. Anderson*, 95 U. S. 37; *Pennoyer v. Neff*, 95 U. S. 714; *Davidson v. New Orleans*, 96 U. S. 97; *R. Co. v. Richmond*, 96 U. S. 521; *Strauder v. West Virginia*, 100 U. S. 303; *Virginia v. Rivers*, 100 U. S. 313; *Ex parte Virginia*, 100 U. S. 339; *Missouri v. Lewis*, 101 U. S. 22; *Neal v. Delaware*, 103 U. S. 370; *Pace v. Alabama*, 106 U. S. 583; *United States v. Harris*, 106 U. S. 629; *Bush v. Kentucky*, 107 U. S. 110; *Ex parte Wall*, 107 U. S. 265; *Gross v. United States Mtg. Company*, 108 U. S. 477; *Civil Rights Cases*, 109 U. S. 3; *Louisiana v. New Orleans*, 109 U. S. 285; *Hurtado v. California*, 110 U. S. 516; *Hagar v. Reclamation Dist.*, 111 U. S. 701; *Head v. Amos Keag Manufacturing Company*, 113 U. S. 9; *Barbier v. Connolly*, 113 U. S. 27; *Provident Institution v. New Jersey*, 113 U. S. 506; *Chicago Life Insurance Company v. Needles*,

*The fourteenth amendment to the constitution of the United States was proposed to the legislatures of the several states by the thirty-ninth congress, on the 16th of June, 1866. On the 21st of July, 1868, congress adopted and transmitted to the Department of State a concurrent resolution declaring that "the legislatures of the states of Connecticut, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Minnesota, New Hampshire, Massachusetts, Nebraska, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the several states of the Union, have ratified the fourteenth article of amendment to the constitution of the United States, duly proposed by two-thirds of each house of the thirty-ninth congress: Therefore Resolved, That said fourteenth article is hereby declared to be a part of the constitution of the United States, and it shall be duly promulgated as such by the secretary of state." The secretary of state accordingly issued a proclamation, dated the 28th of July, 1868, declaring that the proposed fourteenth amendment had been ratified, in the manner hereafter mentioned by the legislatures of thirty of the thirty-six states, viz.: Connecticut, June 30, 1866; New Hampshire, July 7, 1866; Tennessee, July 19, 1866; New Jersey, September 11, 1866 (and the legislature of the same state passed a resolution in April, 1868, to withdraw its consent to it); Oregon, September 19, 1866; Vermont, November 9, 1866; Georgia rejected it November 13, 1866, and ratified it July 21, 1868; North Carolina rejected it December 4, 1866, and ratified it July 4, 1868; South Carolina rejected it December 20, 1866, and ratified it July 9, 1868; New York ratified it January 10, 1867; Ohio ratified it January 11, 1867 (and the legislature of the same state passed a resolution in January, 1868, to withdraw its consent to it); Illinois ratified it January 15, 1867; West Virginia, January 16, 1867; Kansas, January 18, 1867; Maine, January 19, 1867; Nevada, January 22, 1867; Missouri, January 26, 1867; Indiana, January 29, 1867; Minnesota, February 1, 1867; Rhode Island, February 7, 1867; Wisconsin, February 13, 1867; Pennsylvania, February 13, 1867; Michigan, February 15, 1867; Massachusetts, March 20, 1867; Nebraska, June 15, 1867; Iowa, April 3, 1868; Arkansas, April 6, 1868; Florida, June 9, 1868; Louisiana, July 9, 1868; and Alabama, July 13, 1868. Georgia again ratified the amendment February 2, 1870. Texas rejected it November 1, 1866, and ratified it February 18, 1870. Virginia rejected it January 19, 1867, and ratified it October 8, 1869. The amendment was rejected by Kentucky January 10, 1867; by Delaware, February 8, 1867; by Maryland, March 23, 1867; and was not afterward ratified by either state.

113 U. S. 574; *Wurts v. Hoagland*, 114 U. S. 606; *Kentucky Railroad Tax Cases*, 115 U. S. 321; *Missouri Pacific Railroad Company v. Humes*, 115 U. S. 512; *Campbell v. Holt*, 115 U. S. 620; *Presser v. Illinois*, 116 U. S. 252; *Arrowsmith v. Harmoning*, 118 U. S. 194; *Yick Wo v. Hopkins*, 118 U. S. 356; *Santa Clara Company v. Southern Pacific Railroad Company*, 118 U. S. 394; *Philadelphia Fire Association v. New York*, 119 U. S. 110; *Hayes v. Missouri*, 120 U. S. 68; *Huntington v. Worthen*, 120 U. S. 97; *Sands v. Manistee River Improvement Company*, 123 U. S. 288; *Mugler v. Kansas*, 123 U. S. 623; *Pembina, etc., Company v. Pennsylvania*, 125 U. S. 181; *Robards v. Lamb*, 127 U. S. 58; *Missouri Pacific Railroad Company v. Mackey*, 127 U. S. 205; *Powell v. Pennsylvania*, 127 U. S. 678; *Kidd v. Pearson*, 128 U. S. 1; *Walston v. Nevin*, 128 U. S. 578; *Minneapolis Railroad Company v. Beckwith*, 129 U. S. 26; *Huling v. Kaw Valley Ry.*, 130 U. S. 559; *Palmer v. McMahon*, 133 U. S. 660; *Eilenbecker v. District Court*, 134 U. S., 31; *Bell's Gap R. Company v. Pennsylvania*, 134 U. S. 232; *Chicago, etc., Ry. Company v. Minnesota*, 134 U. S. 418; *L. & N. Railroad Company v. Woodson*, 134 U. S. 614; *Kauffman v. Wooters*, 138 U. S. 285; *Leeper v. Texas*, 139 U. S. 462; *Davis v. Texas*, 139 U. S. 651; *McElvaine v. Brush*, 142 U. S. 155; *Pacific Express Company v. Seibert*, 142 U. S. 339; *Charlotte, etc., Railroad Company v. Gibbes*, 142 U. S. 386; *Schwab v. Berggren*, 143 U. S., 442; *Fielden v. Illinois*, 143 U. S. 452; *Budd v. New York*, 143 U. S. 517; *Logan v. United States*, 144 U. S. 263; *New York v. Squire*, 145 U. S. 175; *Morley v. Lake Shore Ry. Company*, 146 U. S. 162; *Halling v. Davis*, 146 U. S. 314; *Paulsen v. Portland*, 149 U. S. 30; *Minneapolis and St. Louis Ry. Company v. Emmons*, 149 U. S. 364; *McNulty v. California*, 149 U. S. 645; *Fong Yue Ting v. United States*, 149 U. S. 698; *Columbus Southern Ry. Company v. Wright*, 151 U. S. 470; *New York, etc., Railroad Company v. Bristol*, 151 U. S. 556; *Duncan v. Missouri*, 152 U. S. 377; *Marchant v. Pennsylvania Railroad Company*, 153 U. S. 380; *Scott v. McNeal*, 154 U. S. 34; *In re Lockwood*, 154 U. S. 116; *Gray v. Connecticut*, 159 U. S. 74; *Central Land Company v. Laidley*, 159 U. S. 103; *Moore v. Missouri*, 159 U. S. 673; *Iowa Central Ry. Company v. Iowa*, 160 U. S. 389; *Eldridge v. Trezevant*, 160 U. S. 452; *Chappell v. United States*, 160 U. S. 499; *Gibson v. Mississippi*, 162 U. S. 565; *Lowe v. Kansas*, 163 U. S. 81; *Plessy v. Ferguson*, 163 U. S. 537; *Fall Brook Irrigation District v. Bradley*, 164 U. S. 112; *Missouri Pacific Railroad Company v. Nebraska*, 164 U. S. 403; *Covington, etc., Turnpike Company v. Sandford*, 164 U. S. 578; *St. Louis & San Francisco Railroad Company v. Mathews*, 165 U. S. 1; *Gulf, Colorado & Santa Fe Railroad Company v. Ellis*, 165 U. S. 150; *Jones v. Brine*, 165 U. S. 180; *Adams Express Company v. Ohio*, 165 U. S. 194; *Western Union Telegraph Company v. Indiana*, 165 U. S. 304.

SECTION 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

SECTION 3. No person shall be a senator or representative in congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But

congress may, by a vote of two-thirds of each house, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Keith v. Clark, 97 U. S. 454.

SECTION 5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Crandall v. Nevada, 6 Wall. 35; Paul v. Virginia, 8 Wall. 169; Ward v. Maryland, 12 Wall. 418; Slaughter-house Cases, 16 Wall. 36; Bradwell v. The State, 16 Wall. 130; Bartemeyer v. Iowa, 18 Wall. 129; Minor v. Happersett, 21 Wall. 162; Walker v. Sauvinet, 92 U. S. 90; Kennard v. Louisiana, Morgan, 92 U. S. 480; United States v. Cruikshank, 92 U. S. 542; Munn v. Illinois, 94 U. S. 113; Strauder v. West Virginia, 100 U. S. 303; Virginia v. Rives, 100 U. S. 313.

ARTICLE XV.*

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

SECTION 2. The congress shall have power to enforce this article by appropriate legislation.

United States v. Reese, 92 U. S. 214; United States v. Cruikshank, 92 U. S. 542; Neal v. Delaware, 103 U. S. 370; United States v. Harris, 106 U. S. 629; Ex parte Yarborough, 110 U. S. 651.

*The fifteenth amendment to the constitution of the United States was proposed to the legislatures of the several states by the fortieth congress on the 27th of February, 1869, and was declared, in a proclamation of the secretary of state, dated March 30, 1870, to have been ratified by the legislatures of twenty-nine of the thirty-seven states. The dates of these ratifications (arranged in the order of their reception at the Department of State) were: from North Carolina, March 5, 1869; West Virginia, March 3, 1869; Massachusetts, March 9-12, 1869; Wisconsin, March 3, 1869; Maine, March 12, 1869; Louisiana, March 5, 1869; Michigan, March 8, 1869; South Carolina, March 16, 1869; Pennsylvania, March 26, 1869; Arkansas, March 30, 1869; Connecticut, May 19, 1869; Florida, June 15, 1869; Illinois, March 5, 1869; Indiana, May 13, 14, 1869; New York, March 17-April 14, 1869 (and the legislature of the same state passed a resolution January 5, 1870, to withdraw its consent to it); New Hampshire, July 7, 1869; Nevada, March 1, 1869; Vermont, October 21, 1869; Virginia, October 8, 1869; Missouri, January 10, 1870; Mississippi, January 15-17, 1870; Ohio, January 27, 1870; Iowa, February 3, 1870; Kansas, January 18, 19, 1870; Minnesota, February 19, 1870; Rhode Island, January 18, 1870; Nebraska, February 17, 1870; Texas, February 18, 1870. The state of Georgia also ratified the amendment, February 2, 1870.

ANALYTICAL INDEX
TO THE
CONSTITUTION OF THE UNITED STATES
AND THE
AMENDMENTS THERETO.

A.

	Art.	Sec.	Cl.	Page
Abridged. The privileges or immunities of citizens of the United States shall not be. [Amendments]-----	14	1	—	171
Absent members, in such manner and under such penalties as it may provide. Each house is authorized to compel the attendance of -----	1	5	1	151
Accounts of receipts and expenditures of public money shall be published from time to time. A statement of the-----	1	9	7	157
Accusation. In all criminal prosecutions the accused shall be informed of the cause and nature of the. [Amendments]	6	—	—	168
Accused shall have a speedy public trial. In all criminal prosecutions the. [Amendments] -----	6	—	—	168
He shall be tried by an impartial jury of the state and district where the crime was committed. [Amendments].	6	—	—	168
He shall be informed of the nature of the accusation. [Amendments] -----	6	—	—	168
He shall be confronted with the witnesses against him. [Amendments] -----	6	—	—	168
He shall have compulsory process for obtaining witnesses in his favor. [Amendments] -----	6	—	—	168
He shall have the assistance of counsel for his defense. [Amendments] -----	6	—	—	168
Actions at common law involving over twenty dollars shall be tried by jury. [Amendments] -----	7	—	—	168
Acts, records, and judicial proceedings of another state. Full faith and credit shall be given in each state to the-----	4	1	—	163
Congress shall prescribe the manner of proving such acts, records, and proceedings -----	4	1	—	163
Adjourn from day to day. A smaller number than a quorum of each house may -----	1	5	1	151
Adjourn for more than three days, nor to any other place than that in which they shall be sitting. Neither house shall, during the session of congress, without the consent of the other -----	1	5	4	152
Adjournment, the president may adjourn them to such time as he shall think proper. In case of disagreement between the two houses as to -----	2	3	—	160
Admiralty and maritime jurisdiction. The judicial power shall extend to all cases of -----	3	2	1	160
Admitted by the congress into this Union, but no new state shall be formed or erected within the jurisdiction of any other state. New states may be -----	4	3	1	164
Nor shall any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures and of congress -----	4	3	1	164

	Art.	Sec.	Cl.	Page
Adoption of the constitution shall be valid. All debts and engagements contracted by the confederation and before the	6	—	1	165
Advice and consent of the senate. The president shall have power to make treaties by and with the	2	2	2	160
To appoint ambassadors or other public ministers and consuls by and with the	2	2	2	160
To appoint other officers of the United States not herein otherwise provided for by and with the	2	2	2	160
Affirmation. Senators sitting to try impeachments shall be on oath or	1	3	6	151
To be taken by the president of the United States. Form of the oath or	2	1	7	160
Affirmation. No warrants shall be issued but upon probable cause and on oath or. [Amendments].....	4	—	—	167
To support the constitution. Senators and representatives, members of state legislatures, executive and judicial officers, both state and federal, shall be bound by oath or	6	—	3	165
Age. No person shall be a representative who shall not have attained twenty-five years of	1	2	2	150
No person shall be a senator who shall not have attained thirty years of	1	3	3	151
Agreement or compact with another state without the consent of congress. No state shall enter into any	1	10	3	158
Aid and comfort. Treason against the United States shall consist in levying war against them, adhering to their enemies, and giving them	3	3	1	163
Alliance or confederation. No state shall enter into any treaty of	1	10	1	157
Ambassadors, or other public ministers and consuls. The president may appoint	2	2	2	160
The judicial power of the United States shall extend to all cases affecting	2	2	1	160
Amendments to the constitution. Whenever two-thirds of both houses shall deem it necessary, congress shall propose	5	—	—	165
To the constitution. On applications of the legislatures of two-thirds of the states, congress shall call a convention to propose	5	—	—	165
Shall be valid when ratified by the legislatures of, or by conventions, three-fourths of the states	5	—	—	165
Answer for a capital or infamous crime unless on presentment of a grand jury. No person shall be held to. [Amendments]	5	—	—	168
Except in cases in the land or naval forces, or in the militia when in actual service. [Amendments]	5	—	—	168
Appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as congress shall make. In what cases the supreme court shall have	3	2	2	162
Application of the legislature or the executive of a state. The United States shall protect each state against invasion and domestic violence on the	4	4	—	164
Application of the legislatures of two-thirds of the states, congress shall call a convention for proposing amendments to the constitution. On the	5	—	—	165
Appointment of officers and authority to train the militia reserved to the states respectively	1	8	16	155
Of such inferior officers as they may think proper in the president alone. Congress may by law vest the	2	2	2	160
In the courts of law or in the heads of departments. Congress may by law vest the	2	2	2	160

	Art.	Sec.	Cl.	Page
Appointment of representation and direct taxation among the several states. Provisions relating to the. [Repealed by sec. 2 of the 14th amendment]-----	1	2	3	150
Of representatives among the several states. Provisions relating to the. [Amendments]-----	14	2	—	171
Appropriate legislation. Congress shall have power to make all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the constitution in the government of the United States, or in any department or officer thereof-----	1	8	18	156
Congress shall have power to enforce the thirteenth article, prohibiting slavery, by. [Amendments]-----	13	2	—	170
Congress shall have power to enforce the provisions of the fourteenth article by. [Amendments]-----	14	5	—	171
Congress shall have power to enforce the provisions of the fifteenth article by. [Amendments]-----	15	2	—	173
Appropriation of money for raising and supporting armies shall be for a longer term than two years. But no----	1	8	12	155
Appropriations made by law. No money shall be drawn from the treasury but in consequence of-----	1	9	7	157
Approve and sign a bill before it shall become a law. The president shall-----	1	7	2	152
He shall return it to the house in which it originated with his objections, if he do not-----	1	7	2	152
Armies , but no appropriation for that use shall be for a longer term than two years. Congress shall have power to raise and support-----	1	8	12	155
Armies. Congress shall make rules for the government and regulation of the land and naval forces-----	1	8	14	155
Arms shall not be infringed. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear. [Amendments]-----	2	—	—	167
Arrest during their attendance at the session of their respective houses, and in going to and returning from the same. Members shall in all cases, except treason, felony, and breach of the peace, be privileged from-----	1	6	1	152
Arsenals. Congress shall exercise exclusive authority over all places purchased for the erection of-----	1	8	17	155
Articles exported from any state. No tax or duty shall be laid on-----	1	9	5	156
Arts , by securing to authors and inventors their patent rights. Congress may promote the progress of science and the useful-----	1	8	8	154
Assistance of counsel for his defense. In all criminal prosecutions the accused shall have the. [Amendments]-----	6	—	—	168
Assumption of the debt or obligations incurred in the aid of rebellion or insurrection against the United States. Provisions against the. [Amendments]-----	14	4	—	171
Attainder or <i>ex post facto</i> law shall be passed. No bill of....	1	9	3	156
Attainder , <i>ex post facto</i> law, or law impairing the obligation of contracts. No state shall pass any bill of-----	1	10	1	157
Attainder of treason shall not work corruption of blood or forfeiture, except during the life of the person attained..	3	3	2	163
Authors and inventors the exclusive right to their writings and inventions. Congress shall have power to secure to..	1	8	8	154
B.				
Bail. Excessive bail shall not be required, nor excessive fines nor cruel and unusual punishment imposed. [Amendments]-----	8	—	—	169
Ballot for president and vice-president. The electors shall vote by. [Amendments]-----	12	—	—	170

	Art	Sec.	Cl.	Page
Ballot. If no person have a majority of the electoral votes for president and vice-president, the house of representatives shall immediately choose the president by. [Amendments]	12	—	—	170
Bankruptcies. Congress shall have power to pass uniform laws on the subject of	1	8	4	154
Basis of representation among the several states. Provisions relating to the. [Amendments]	14	2	—	172
Bear arms shall not be infringed. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and. [Amendments]	2	—	—	167
Behavior. The judges of the supreme and inferior courts shall hold their offices during good	3	1	—	161
Bill of attainder or <i>ex post facto</i> law shall be passed. No....	1	9	3	156
Bill of attainder, <i>ex post facto</i> law, or law impairing the obligation of contracts. No state shall pass any.....	1	10	1	157
Bills of credit. No state shall emit	1	10	1	157
Bills for raising revenue shall originate in the house of representatives. All	1	7	1	152
Bills which have passed the senate and house of representatives shall, before they become laws, be presented to the president	1	7	2	152
If he approve, he shall sign them; if he disapprove, he shall return them, with his objections, to that house in which they originated	1	7	2	152
Upon the reconsideration of a bill returned by the president, with his objections, if two-thirds of each house agree to pass the same, it shall become a law.....	1	7	2	152
Upon the reconsideration of a bill returned by the president, the question shall be taken by yeas and nays....	1	7	2	152
Not returned by the president within ten days (Sundays excepted) shall, unless congress adjourn, become laws..	1	7	2	152
Borrow money on the credit of the United States. Congress shall have power to	1	8	2	153
Bounties and pensions shall not be questioned. The validity of the public debt incurred in suppressing insurrection and rebellion against the United States, including the debt for. [Amendments]	14	4	—	171
Breach of the peace, shall be privileged from arrest while attending the session, and in going to and returning from the same. Senators and representatives, except for treason, felony, and	1	6	1	152
Bribery, or other high crimes and misdemeanors. The president, vice-president, and all civil officers shall be removed on impeachment for and conviction of treason..	2	4	—	161
C.				
Capital or otherwise infamous crime, unless on indictment of a grand jury, except in certain specified cases. No person shall be held to answer for a. [Amendments]..	5	—	—	168
Capitation or other tax shall be laid unless in proportion to the census or enumeration. No	1	9	4	156
Captures on land and water. Congress shall make rules concerning	1	9	11	155
Casting vote. The vice-president shall have no vote unless the senate be equally divided	1	3	4	151
Census or enumeration of the inhabitants shall be made within three years after the first meeting of congress and within every subsequent term of ten years thereafter..	1	2	3	150
Census or enumeration. No capitation or other direct tax shall be laid except in proportion to the.....	1	9	4	156

	Art.	Sec.	Cl.	Page
Chief justice shall preside when the president of the United States is tried upon impeachment. The	1	3	6	151
Choosing the electors and the day on which they shall give their votes, which shall be the same throughout the United States. Congress may determine the time of...	2	1	3	159
Citizen of the United States at the adoption of the constitution shall be eligible to the office of president. No person not a natural born	2	1	4	159
Citizen of the United States. No person shall be a senator who shall not have attained the age of thirty years, and been nine years a	1	3	3	151
No person shall be a representative who shall not have attained the age of twenty-five years, and been seven years a	1	2	2	150
Citizenship. Citizens of each state shall be entitled to all the privileges and immunities of citizens of the several states	4	2	1	163
All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state in which they reside. [Amendments]	14	1	—	171
No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. [Amendments]	14	1	—	171
Nor shall any state deprive any person of life, liberty, or property without due process of law. [Amendments]...	14	1	—	171
Nor deny to any person within its jurisdiction the equal protection of the laws. [Amendments]	14	1	—	171
Citizens or subjects of a foreign state. The judicial power of the United States shall not extend to suits in law or equity brought against one of the states by the citizens of another state, or by. [Amendments]	11	—	—	169
Civil officers of the United States shall, on impeachment for and conviction of treason, bribery, and other high crimes and misdemeanors, be removed. All.....	2	4	—	161
Claims of the United States or any particular state in the territory or public property. Nothing in this constitution shall be construed to prejudice	4	3	2	164
Classification of senators. Immediately after they shall be assembled after the first election, they shall be divided as equally as may be into three classes	1	3	2	150
The seats of the senators of the first class shall be vacated at the expiration of the second year	1	3	2	150
The seats of the senators of the second class at the expiration of the fourth year	1	3	2	151
The seats of the senators of the third class at the expiration of the sixth year	1	3	2	151
Coin a tender in payment of debts. No state shall make anything but gold and silver	1	10	1	157
Coin money and regulate the value thereof and of foreign coin. Congress shall have power to	1	8	5	154
Coin of the United States. Congress shall provide for punishing the counterfeiting the securities and current.....	1	8	6	154
Color, or previous condition of servitude. The right of citizens of the United States to vote shall not be denied, or abridged by the United States or by any state on account of race. [Amendments]	15	1	—	173
Comfort. Treason against the United States shall consist in levying war against them, and giving their enemies aid and	3	3	1	163
Commander-in-chief of the army and navy, and of the militia when in actual service. The president shall be.....	2	2	1	160

	Art.	Sec.	Cl.	Page
Commerce with foreign nations, among the states, and with Indian tribes. Congress shall have power to regulate...	1	8	3	153
Commerce or revenue. No preference shall be given to the ports of one state over those of another by any regulation of	1	9	6	156
Vessels clearing from the ports of one state shall not pay duties in those of another	1	9	6	156
Commissions to expire at the end of the next session. The president may fill vacancies that happen in the recess of the senate by granting	2	2	3	160
Common defense, promote the general welfare, etc. To insure the. [Preamble]	—	—	—	149
Common defense and general welfare. Congress shall have power to provide for the	1	8	1	153
Common law, where the amount involved exceeds twenty dollars, shall be tried by jury. Suits at. [Amendments]..	7	—	—	168
No fact tried by a jury shall be otherwise reexamined in any court of the United States than according to the rules of the. [Amendments]	7	—	—	168
Compact with another state. No state shall, without the consent of congress, enter into any agreement or.....	1	10	3	158
Compact with a foreign power. No state shall, without the consent of congress, enter into any agreement or.....	1	10	3	158
Compensation of senators and representatives to be ascertained by law	1	6	1	172
Compensation of the president shall not be increased nor diminished during the period for which he shall be elected	2	1	6	159
Compensation of the judges of the supreme and inferior courts shall not be diminished during their continuance in office	3	1	—	161
Compensation. Private property shall not be taken for public use without just. [Amendments]	5	—	—	168
Compulsory process for obtaining witnesses in his favor. In criminal prosecutions the accused shall have. [Amendments]	6	—	—	168
Confederation. No state shall enter into any treaty, alliance, or	1	10	1	157
Confederation. All debts contracted and engagements entered into before the adoption of this constitution shall be as valid against the United States under it, as under the...	6	—	1	165
Confession in open court. Conviction of treason shall be on the testimony of two persons to the overt act, or upon.	3	3	1	163
Congress of the United States. All legislative powers shall be vested in a	1	1	—	150
Shall consist of a senate and house of representatives...	1	1	—	150
Congress shall assemble at least once in every year, which shall be on the first Monday of December, unless they by law appoint a different day	1	4	2	151
May at any time alter regulations for elections of senators and representatives, except as to the places of choosing senators	1	4	1	151
Each house shall be the judge of the elections, returns, and qualifications of its own members	1	5	1	151
A majority of each house shall constitute a quorum to do business	1	5	1	151
A smaller number may adjourn from day to day and may be authorized to compel the attendance of absent members	1	5	1	151
Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.....	1	5	2	151

	Art.	Sec.	Cl.	Page
Congress. Each house shall keep a journal of its proceedings.....	1	5	3	152
Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days	1	5	4	152
Senators and representatives shall receive a compensation to be ascertained by law	1	6	1	152
They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during attendance at their respective houses, and in going to and returning from the same	1	6	1	152
No senator or representative shall, during his term, be appointed to any civil office which shall have been created, or of which the emolument shall have been increased, during such term	1	6	2	152
No person holding any office under the United States, shall, while in office, be a member of either house of congress	1	6	2	152
All bills for raising revenue shall originate in the house of representatives	1	7	1	152
Proceedings in cases of bills returned by the president with his objections	1	7	1	152
Shall have power to lay and collect duties, imposts, and exercises, pay the debts, and provide for the common defense and general welfare	1	8	2	153
Shall have power to borrow money on the credit of the United States	1	8	2	153
To regulate foreign and domestic commerce, and with the Indian tribes	1	8	3	153
To establish an uniform rule of naturalization and uniform laws on the subject of bankruptcies	1	8	4	154
To coin money, regulate its value, and the value of foreign coin, and to fix the standard of weights and measures..	1	8	5	154
To punish the counterfeiting the securities and current coin of the United States	1	8	6	154
To establish post-offices and post-roads	1	8	7	154
To promote the progress of science and the useful arts..	1	8	8	154
To constitute tribunals inferior to the supreme court....	1	8	9	155
To define and punish piracies and felonies on the high seas and to punish offenses against the law of nations....	1	8	10	155
To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water....	1	8	11	155
To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years	1	8	12	155
To provide and maintain a navy	1	8	13	155
To make rules for the government of the army and navy..	1	8	14	155
To call out the militia to execute the laws, suppress insurrections, and repel invasions	1	8	15	155
To provide for organizing, arming, and equipping the militia	1	8	16	155
To exercise exclusive legislation over the district fixed for the seat of government, and over forts, magazines, arsenals, and dockyards	1	8	17	155
To make all laws necessary and proper to carry into execution all powers vested by the constitution in the government of the United States	1	8	18	156
No person holding any office under the United States shall accept of any present, emolument, office, or title of any kind from any foreign state, without the consent of...	1	9	8	157
May determine the time of choosing the electors for president and vice-president and the day on which they shall give their votes	2	1	3	159

	Art.	Sec.	Cl.	Page
Congress. The president may, on extraordinary occasions, convene either house of	2	3	—	160
The manner in which the acts, records, and judicial proceedings of the states shall be proved, shall be prescribed by	4	1	—	163
New states may be admitted by congress into this Union. Shall have power to make all needful rules and regulations respecting the territory or other property belonging to the United States	4	3	2	164
Amendments to the constitution shall be proposed whenever it shall be deemed necessary by two-thirds of both houses of	4	3	1	164
Persons engaged in insurrection or rebellion against the United States disqualified for senators or representatives in. [Amendments]	5	—	—	165
But such disqualifications may be removed by a vote of two-thirds of both houses of. [Amendments]	14	3	—	171
Shall have power to enforce, by appropriate legislation, the thirteenth amendment. [Amendments]	14	3	—	171
Shall have power to enforce, by appropriate legislation, the fourteenth amendment. [Amendments]	13	2	—	170
Shall have power to enforce, by appropriate legislation, the fifteenth amendment. [Amendments]	14	5	—	171
Shall have power to enforce, by appropriate legislation, the fifteenth amendment. [Amendments]	15	2	—	173
Consent. No state shall be deprived of its equal suffrage in the senate without its	5	—	—	165
Consent of Congress. No person holding any office of profit or trust under the United States shall accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign potentate, without the	1	9	8	157
No state shall lay any imposts, or duties on imports, except what may be absolutely necessary for executing its inspection laws, without the	1	10	2	158
No state shall lay any duty of tonnage, keep troops or ships of war in time of peace, without the	1	10	3	158
No state shall enter into any agreement or compact with another state, or with a foreign power, without the...	1	10	3	158
No state shall engage in war unless actually invaded, or in such imminent danger as will not admit of delay, without the	1	10	3	158
No new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures thereof, as well as the	4	3	1	164
Consent of the legislature of the state in which the same may be. Congress shall exercise exclusive authority over all places purchased for the erection of forts, magazines, arsenals, dockyards, and other needful buildings by the	1	8	17	155
Consent of the legislatures of the states and of congress. No state shall be formed by the junction of two or more states or parts of states without the.....	4	3	1	164
Consent of the other. Neither house, during the session of congress, shall adjourn for more than three days, nor to any other place than that in which they shall be sitting, without the	1	5	4	152
Consent of the owner. No soldier shall be quartered in time of peace in any house without the. [Amendments]...	3	—	—	167

	Art.	Sec.	Cl.	Page
Consent of the Senate. The president shall have power to make treaties, by and with the advice and.....	2	2	2	160
The president shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers created by law and not otherwise herein provided for, by and with the advice and.....	2	2	2	160
Constitution, in the government of the United States, or in any department or officer thereof. Congress shall have power to pass all laws necessary to the execution of the powers vested by	1	8	18	156
Constitution, shall be eligible to the office of president. No person except a natural-born citizen or a citizen at the time of the adoption of the	2	1	4	159
Constitution. The president, before he enters upon the execution of his office, shall take an oath to preserve, protect, and defend the	2	1	7	160
Constitution, laws, and treaties of the United States. The judicial power shall extend to all cases arising under the	3	2	1	161
Constitution shall be so construed as to prejudice any claims of the United States, or of any state (in respect to territory or other property of the United States). Nothing in the	4	3	2	164
Constitution. The manner in which amendments may be proposed and ratified	5	—	—	165
Constitution as under the confederation shall be valid. All debts and engagements contracted before the adoption of the	6	—	1	165
Constitution and the laws made in pursuance thereof, and all treaties made, or which shall be made, by the United States, shall be the supreme law of the land. The	6	—	2	165
The judges in every state, anything in the constitution or laws of a state to the contrary notwithstanding, shall be bound thereby	6	—	2	165
Constitution. All officers, legislative, executive, and judicial, of the United States, and of the several states, shall be bound by an oath to support the	6	—	3	165
But no religious test shall ever be required as a qualification for any office or public trust	6	—	3	165
Constitution between the states so ratifying the same. The ratification of the conventions of nine states shall be sufficient for the establishment of the	7	—	—	165
Constitution of certain rights shall not be construed to deny or disparage others retained by the people. The enumeration in the. [Amendments]	9	—	—	169
Constitution, nor prohibited by it to the states, are reserved to the state respectively or to the people. Powers not delegated to the United States by the. [Amendments]	10	—	—	169
Constitution, and then engaged in rebellion against the United States. Disqualification for office imposed upon certain classes of persons who took an oath to support the. [Amendments]	14	3	—	171
Constitution. Done in convention by the unanimous consent of the states present, September 17, 1787.....	7	—	2	166
Contracts. No state shall pass any ex post facto law, or law impairing the obligation of	7	10	1	157

	Art.	Sec.	Cl.	Page
Controversies to which the United States shall be a party; between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states; between a state or its citizens and foreign state, citizens, or subjects. The judicial power shall extend to.....	3	2	1	161
Convene Congress or either house, on extraordinary occasions. The president may	2	3	—	161
Convention for proposing amendments to the constitution. Congress, on the application of two-thirds of the legislatures of the states, may call a.....	5	—	—	165
Convention, by the unanimous consent of the states present on the 17th of September, 1787. Adoption of the constitution in	7	—	—	165
Conventions of nine states shall be sufficient for the establishment of the constitution. The ratification of the..	7	—	—	165
Conviction in cases of impeachment shall not be had without the concurrence of two-thirds of the members present..	1	3	6	151
Copyrights to authors for limited times. Congress shall have power to provide for	1	8	8	154
Corruption of blood. Attainder of treason shall not work..	3	3	2	163
Counsel for his defense. In all criminal prosecutions the accused shall have the assistance of. [Amendments]..	6	—	—	168
Counterfeiting the securities and current coin of the United States. Congress shall provide for the punishment of..	1	8	6	154
Courts. Congress shall have power to constitute tribunals inferior to the supreme court	1	8	9	155
Courts of law. Congress may by law vest the appointment of such inferior officers as they think proper in the president alone, in the heads of departments, or in the	2	2	2	160
Courts as congress may establish. The judicial power of the United States shall be vested in one supreme court and such inferior	3	1	—	161
Courts. The judges of the supreme and inferior courts shall hold their offices during good behavior	3	1	—	161
 Their compensation shall not be diminished during their continuance in office	3	1	—	161
Credit. No state shall emit bills of.....	1	10	1	157
Credit of the United States. Congress shall have power to borrow money on the	1	8	2	158
Credit shall be given in every other state to the public acts, records, and judicial proceedings of each state. Full faith and	4	1	—	168
Crime, unless on a presentment of a grand jury. No person shall be held to answer for a capital or otherwise infamous. [Amendments]	5	—	—	168
 Except in cases in the military and naval forces, or in the militia when in actual service. [Amendments]..	5	—	—	168
Crimes and misdemeanors. The president, vice-president, and all civil officers shall be removed on impeachment for and conviction of treason, bribery, or other.....	2	4	—	161
Crimes, except in cases of impeachment, shall be tried by jury. All	3	2	3	162
 They shall be tried in the state within which they may be committed	3	2	3	162
 When not committed in a state, they shall be tried at the places which congress may by law have provided..	3	2	3	162
Criminal prosecutions, the accused shall have a speedy and public trial by jury in the state and district where the crime was committed. In all. [Amendments].....	6	—	—	168

	Art.	Sec.	Cl.	Page
Criminal prosecutions. He shall be informed of the nature and cause of the accusation. [Amendments]	6	—	—	168
He shall be confronted with the witnesses against him. [Amendments]	6	—	—	168
He shall have compulsory process for obtaining witnesses in his favor. [Amendments]	6	—	—	168
He shall have the assistance of counsel in his defense. [Amendments]	6	—	—	168
Criminate himself. No person as a witness shall be compelled to. [Amendments]	5	—	—	168
Cruel and unusual punishments inflicted. Excessive bail shall not be required, nor excessive fines imposed, nor. [Amendments]	8	—	—	169
D.				
Danger as will not admit of delay. No state shall, without the consent of congress, engage in war, unless actually invaded, or in such imminent	1	10	3	158
Day on which they shall vote for president and vice-president, which shall be the same throughout the United States. Congress may determine the time of choosing the electors, and the	2	1	3	159
Day to day , and may be authorized to compel the attendance of absent members. A smaller number than a quorum of each house may adjourn from.....	1	5	1	151
Death , resignation, or inability of the president, the powers and duties of his office shall devolve on the vice-president. In case of the	2	1	5	159
Death , resignation, or inability of the president. Congress may provide by law for the case of the removal.....	2	1	5	159
Debt of the United States, including debts for pensions and bounties incurred in suppressing insurrection or rebellion, shall not be questioned. The validity of the public. [Amendments]	14	4	—	171
Debts. No state shall make anything but gold and silver coin a tender in payment of.....	1	10	1	157
Debts and provide for the common defense and general welfare of the United States. Congress shall have power to pay the	1	8	1	153
Debts and engagements contracted before the adoption of this constitution shall be as valid against the United States under it as under the confederation.....	6	—	1	165
Debts or obligations incurred in aid of insurrection or rebellion against the United States, or claims for the loss or emancipation of any slave. Neither the United States nor any state shall assume or pay any. [Amendments]	14	4	—	171
Declare war , grant letters of marque and reprisal, and make rules concerning captures on land and water. Congress shall have power to	1	8	11	155
Defense , promote the general welfare, etc. To insure the common. [Preamble]	—	—	—	149
Defense and general welfare throughout the United States. Congress shall have power to pay the debts and provide for the common	1	8	1	153
Defense. In all criminal prosecutions the accused shall have the assistance of counsel for his. [Amendments]	6	—	—	168
Delaware entitled to one representative in the first congress..	1	2	3	150
Delay. No state shall, without the consent of congress, engage in war unless actually invaded, or in such imminent danger as will not admit of.....	1	10	3	158

	Art.	Sec.	Cl.	Page
Delegated to the United States, nor prohibited to the states, are reserved to the states or to the people. The powers not. [Amendments]	10	—	—	169
Deny or disparage other retained by the people. The enumeration in the constitution of certain rights shall not be construed to. [Amendments]	9	—	—	169
Departments upon any subject relating to their duties. The president may require the written opinion of the principal officers in each of the executive.	2	2	1	160
Departments. Congress may by law vest the appointment of inferior officers in the heads of	2	2	2	160
Direct tax shall be laid unless in proportion to the census or enumeration. No capitation or other	1	9	4	156
Direct taxes and representatives, how apportioned among the several states. [Repealed by the second section of the fourteenth amendment]	1	2	3	150
Disability of the president and vice-president. Provisions in case of the	2	1	5	159
Disability. No person shall be a senator or representative in congress, or presidential elector, or hold any office, civil or military, under the United States, or any state, who having previously taken an oath as a legislative, executive, or judicial officer of the United States, or of any state, to support the constitution, afterwards engaged in insurrection or rebellion against the United States. [Amendments]	14	3	—	171
But congress may, by a vote of two-thirds of each house, remove such. [Amendments]	14	3	—	171
Disagreement between the two houses as to the time of adjournment, the president may adjourn them to such time as he may think proper. In case of.	2	3	—	160
Disorderly behavior. Each house may punish its members for	1	5	5	151
And with the concurrence of two-thirds expel a member..	1	5	2	151
Disparage others retained by the people. The enumeration in the constitution of certain rights shall not be construed to deny or. [Amendments]	9	—	—	169
Disqualification. No senator or representative shall, during the time for which he was elected, be appointed to any office under the United States which shall have been created or its emoluments increased during such term.	1	6	2	152
No person holding any office under the United States shall be a member of either house during his continuance in office	1	6	2	152
No person shall be a member of either house, presidential elector, or hold any office under the United States, or any state, who, having previously sworn to support the constitution, afterwards engaged in insurrection or rebellion. [Amendments]	14	3	—	171
But congress may, by a vote of two-thirds of each house, remove such disability. [Amendments]	14	3	—	171
District of Columbia. Congress shall exercise exclusive legislation in all cases over the	1	8	17	155
Dockyards. Congress shall have exclusive authority over all places purchased for the erection of.	1	8	17	155
Domestic tranquillity, provide for the common defense, etc. To insure. [Preamble]	—	—	—	149
Domestic violence. The United States shall protect each state against invasion and	4	4	—	164

	Art.	Sec.	Cl.	Page
Due process of law. No person shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property without. [Amendments]	5	—	—	168
No state shall deprive any person of life, liberty, or property without. [Amendments]	14	1	—	171
Duties and powers of the office of the president, in case of his death, removal, or inability to act, shall devolve on the vice-president	2	1	5	159
In case of the disability of the president and vice-president, congress shall declare what officer shall act.....	2	1	5	159
Duties, imposts, and excises. Congress shall have power to lay and collect taxes	1	8	1	153
Shall be uniform throughout the United States.....	1	8	1	153
Duties shall be laid on articles exported from any state. No tax or	1	9	5	156
Duties in another state. Vessels clearing in the ports of one state shall not be obliged to pay	1	9	6	156
On imports and exports, without the consent of congress, except where necessary for executing its inspection laws. No state shall lay any.....	1	10	2	158
Duties on imports or exports. The net produce of all such duties shall be for the use of the treasury of the United States	1	10	2	158
All laws laying such duties shall be subject to the revision and control of congress	1	10	2	158
Duty of tonnage without the consent of congress. No state shall lay any	1	10	3	158

E.

Election of president and vice-president. Congress may determine the day for the.....	2	1	3	159
Shall be the same throughout the United States. The day of the	2	1	3	159
Elections for senators and representatives. The legislatures of the states shall prescribe the time, places, manner of holding	1	4	1	151
But congress may, at any time, alter such regulations, except as to the places of choosing senators	1	4	1	151
Returns and qualifications of its own members. Each house shall be judge of the.....	1	5	1	151
Electors for members of the house of representatives. Qualifications of	1	2	1	150
Electors for president and vice-president. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the congress	2	1	2	150
But no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector	2	1	2	159
Congress may determine the time of choosing the electors and the day on which they shall give their votes....	2	1	3	159
Which day shall be the same throughout the United States	2	1	3	150
The electors shall meet in their respective states and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves. [Amendments]	12	—	—	170

	Art.	Sec.	Cl.	Page
Electors shall name, in their ballots, the persons voted for as president; and in distinct ballots the person voted for as vice-president. [Amendments]	12	—	—	170
They shall make distinct lists of the persons voted for as president and of persons voted for as vice-president, which they shall sign and certify, and transmit sealed to the seat of government, directed to the president of the senate. [Amendments]	12	—	—	170
No person having taken an oath as a legislative, executive, or judicial officer of the United States, or of any state, and afterward engaged in insurrection or rebellion against the United States, shall be an elector. . . .	14	3	—	171
But congress may, by a vote of two-thirds of each house, remove such disability. [Amendments]	14	3	—	171
Emancipation of any slave shall be held to be illegal and void. Claims for the loss or. [Amendments]	14	4	—	171
Emit bills of credit. No state shall	1	10	1	157
Enrolment of any kind from any king, prince, or foreign state, without the consent of congress. No person holding any office under the United States shall accept any	1	9	8	157
Enemies. Treason shall consist in levying war against the United States, in adhering to, or giving aid and comfort to their	3	3	1	163
Engagements contracted before the adoption of this constitution shall be valid. All debts and	6	—	1	165
Enumeration of the inhabitants shall be made within three years after the first meeting of congress, and within every subsequent term of ten years thereafter	1	2	3	150
Ratio of representation not to exceed one for every 30,000 until the first enumeration shall be made	1	2	3	150
Enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people. The. [Amendments]	9	—	—	169
Equal protection of the laws. No state shall deny to any person within its jurisdiction the. [Amendments]	14	1	—	171
Equal suffrage in the senate. No state shall be deprived without its consent of its	5	—	—	165
Establishment of this constitution between the states ratifying the same. The ratification of nine states shall be sufficient for the	7	—	—	165
Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. [Amendments]	8	—	—	160
Excises. Congress shall have power to lay and collect taxes, duties, imposts, and	1	8	1	153
Shall be uniform throughout the United States. All duties, imposts, and	1	8	1	153
Exclusive legislation, in all cases, over such district as may become the seat of government. Congress shall exercise	1	8	—	150
Exclusive legislation over all places purchased for the erection of forts, magazines, arsenals, dockyards, and other needful buildings. Congress shall exercise	1	2	4	150
Executive of a state. The United States returns, and qualifies against invasion	1	5	1	151
application of the substitute a quorum to do business	1	5	1	151
Executive and judicial majority may adjourn from day to day, and the sever	1	5	1	151
the attendance of absent members	1	5	1	151

	Art.	Sec.	Cl.	Page
House of representatives, may determine its own rules of proceedings	1	5	2	151
May punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member--	1	5	2	151
Shall keep a journal of its proceedings	1	5	3	152
Shall not adjourn for more than three days during the session of congress without the consent of the senate--	1	5	4	152
Members shall not be questioned for any speech or debate in either house or any other place	1	6	1	152
No person holding any office under the United States shall, while holding such office, be a member of the	1	6	2	152
No person, while a member of either house, shall be appointed to an office which shall have been created or the emoluments increased during his membership--	1	6	2	152
All bills for raising revenue shall originate in the	1	7	1	152
The vote for president and vice-president shall be counted in the presence of the senate and. [Amendments]---	12	—	—	170
If no person have a majority of electoral votes, then from the three highest on the list the house of representatives shall immediately, by ballot, choose a president. [Amendments]	12	—	—	170
They shall vote by states, each state counting one vote. [Amendments]	12	—	—	170
A quorum shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to the choice of a president. [Amendments]	12	—	—	170
No person having as a legislative, executive, or judicial officer of the United States, or of any state, taken an oath to support the constitution, and afterwards engaged in insurrection or rebellion against the United States, shall be a member of the. [Amendments]	14	3	—	171
But congress may, by a vote of two-thirds of each house, remove such disability. [Amendments]	14	3	—	171
I.				
Imminent danger as will not admit of delay. No state shall, without the consent of congress, engage in war, unless actually invaded or in such	1	10	3	158
Immunities. Members of congress shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going and returning from the same	1	6	1	152
No soldier shall be quartered in any house without the consent of the owner in time of peace. [Amendments]	3	—	—	167
No person shall be twice put in jeopardy of life and limb for the same offense. [Amendments]	5	—	—	168
All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state in which they reside. [Amendments]	14	1	—	171
No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. [Amendments]	14	1	—	171
Nor shall any state deprive any person of life, liberty, or property without due process of law. [Amendments]	14	1	—	171
Nor deny to any person within its jurisdiction the equal protection of the laws. [Amendments]	14	1	—	171

	Art.	Sec.	Cl.	Page
Impeachment. The president may grant reprieves and pardons except in cases of -----	2	2	1	160
The house of representatives shall have the sole power of -----	1	2	5	150
The trial of all crimes shall be by jury, except in cases of -----	3	2	3	163
Impeachment for and conviction of treason, bribery, and other high crimes and misdemeanors. The president, vice-president, and all civil officers shall be removed upon -----	2	4	—	161
Impeachments. The senate shall have the sole power to try all -----	1	3	6	151
The senate shall be on oath, or affirmation, when sitting for the trial of -----	1	3	6	151
When the president of the United States is tried the chief justice shall preside -----	1	3	6	151
No person shall be convicted without the concurrence of two-thirds of the members present -----	1	3	6	151
Judgment shall not extend beyond removal from office and disqualification to hold office -----	1	3	7	151
But the party convicted shall be liable to indictment and punishment according to law -----	1	3	7	151
Importation of slaves prior to 1808 shall not be prohibited by the congress -----	1	9	1	156
But a tax or duty of ten dollars for each person may be imposed on such -----	1	9	1	156
Imports or exports except what may be absolutely necessary for executing its inspection laws. No state shall, without the consent of congress, lay any impost or duties on -----	1	10	2	158
Imports or exports laid by any state shall be for the use of the treasury. The net produce of all duties on -----	1	10	2	158
Imports or exports shall be subject to the revision and control of congress. All laws of states laying duties on -----	1	10	3	158
Imposts and excises. Congress shall have power to lay and collect taxes, duties -----	1	8	1	153
Shall be uniform throughout the United States. All taxes, duties -----	1	8	1	153
Inability of the president, the powers and duties of his office shall devolve on the vice-president. In case of death, resignation, or -----	2	1	5	159
Inability of the president or vice-president. Congress may provide by law for the case of the removal, death, resignation or -----	2	1	5	159
Indian tribes. Congress shall have power to regulate commerce with the -----	1	8	3	153
Indictment or presentment of a grand jury. No person shall be held to answer for a capital or infamous crime unless on. [Amendments] -----	5	—	—	168
Indictment. Except in cases arising in the land and naval and in the militia when in actual service. [Amendments] -----	5	—	—	168
Indictment, trial, judgment, and punishment, according to law. The party convicted in case of impeachment shall nevertheless be liable and subject to -----	1	3	7	151
Infamous crime unless on presentment or indictment of a grand jury. No person shall be held to answer for a capital or. [Amendments] -----	5	—	—	168
Inferior courts. Congress shall have power to constitute tribunals inferior to the supreme court -----	1	8	9	155
Inferior courts as congress may establish. The judicial power of the United States shall be vested in one supreme court and such -----	3	1	—	161

	Art.	Sec.	Cl.	Page
Inferior courts. The judges of both the supreme and inferior courts shall hold offices during good behavior....	3	1	—	161
Their compensation shall not be diminished during their continuance in office	3	1	—	161
Inferior officers in the courts of law, in the president alone, or in the heads of departments. Congress, if they think proper, may by law vest the appointment of	2	2	2	160
Inhabitant of the state for which he shall be chosen. No person shall be a senator who shall not have attained the age of thirty years, been nine years a citizen of the United States, and who shall not, when elected, be an...	1	3	3	151
Insurrection or rebellion against the United States. No person shall be a senator or representative in congress, or presidential elector, or hold any office, civil or military, under the United States, or any state, who, having taken an oath as a legislative, executive, or judicial officer of the United States, or of a state, afterwards engaged in. [Amendments]	14	3	—	171
But congress may, by a vote of two-thirds of each house, remove such disabilities. [Amendments]	14	3	—	171
Debts declared illegal and void which were contracted in aid of. [Amendments]	14	4	—	171
Insurrections and repel invasions. Congress shall provide for calling forth the militia to suppress.....	1	8	15	155
Invasion. No state shall, without the consent of congress, engage in war unless actually invaded, or in such imminent danger as will not admit of delay.....	1	10	3	158
Invasion. The writ of habeas corpus shall not be suspended unless in case of rebellion or.....	1	9	2	156
Invasion and domestic violence. The United States shall protect each state against	4	4	—	164
Invasions. Congress shall provide for calling forth the militia to suppress insurrections and repel	1	8	15	155
Inventors and authors in their inventions and writings. Congress may pass laws to secure for limited times exclusive rights to	1	8	8	154
Involuntary servitude, except as punishment for crime, abolished in the United States. Slavery and. [Amendments]	13	1	—	170
J.				
Jeopardy of life and limb for the same offense. No person shall be twice put in. [Amendments].....	5	—	—	168
Journal of its proceedings. Each house shall keep a.....	1	5	3	152
Judges in every state shall be bound by the constitution, the laws and treaties of the United States, which shall be the supreme law of the land.....	6	—	2	165
Judges of the supreme and inferior courts shall hold their offices during good behavior	3	1	—	161
Their compensation shall not be diminished during their continuance in office	3	1	—	161
Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under the United States	1	3	7	151
But the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law	1	3	7	151

	Art.	Sec.	Cl.	Page
Judicial power of the United States. Congress shall have power to constitute tribunals inferior to the supreme court -----	1	8	9	155
The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as congress may from time to time ordain and establish----	3	1	—	161
The judges of the supreme and inferior courts shall hold their offices during good behavior -----	3	1	—	161
Their compensation shall not be diminished during their continuance in office -----	3	1	—	161
It shall extend to all cases in law and equity arising under the constitution, laws, and treaties of the United States -----	3	2	1	161
To all cases affecting ambassadors, other public ministers and consuls -----	3	2	1	161
To all cases of admiralty and maritime jurisdiction-----	3	2	1	161
To controversies to which the United States shall be a party -----	3	2	1	161
To controversies between two or more states-----	3	2	1	161
To controversies between a state and citizens of another state -----	3	2	1	161
To controversies between citizens of different states----	3	2	1	161
To citizens of the same state claiming lands under grants of different states -----	3	2	1	161
To controversies between a state or its citizens and foreign states, citizens, or subjects -----	3	2	1	161
In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction----	3	2	2	162
In all other cases before mentioned it shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as congress shall make	3	2	2	162
The trial of all crimes, except in cases of impeachment, shall be by jury -----	3	2	3	162
The trial shall be held in the state where the crimes shall have been committed -----	3	2	3	162
But when not committed in a state, the trial shall be at such place or places as congress may by law have directed -----	3	2	3	162
The judicial power of the United States shall not be held to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign states. [Amendments] -----	11	—	—	169
Judicial proceedings of every other state. Full faith and credit shall be given in each state to the acts, records, and -----	4	1	—	163
Congress shall prescribe the manner of proving such acts, records, and proceedings -----	4	1	—	163
Judicial and executive officers of the United States and of the several states shall be bound by an oath to support the constitution -----	6	—	3	165
Judiciary. The supreme court shall have original jurisdiction in all cases affecting ambassadors, other public ministers and consuls, and those in which a state may be a party -----	3	2	2	162
The supreme court shall have appellate jurisdiction both as to law and fact, with such exceptions and regulations as congress may make -----	3	2	2	162
Junction of two or more states or parts of states without the consent of the legislatures and of congress. No state shall be formed by the -----	4	3	1	164

	Art.	Sec.	Cl.	Page
Jurisdiction of another state. No new state shall, without the consent of congress, be formed or erected within the	4	3	1	164
Jurisdiction, both as to law and fact, with such exceptions and under such regulations as congress may make. The supreme court shall have appellate-----	3	2	2	162
Jurisdiction. In all cases affecting ambassadors, and other public ministers and consuls, and in cases where a state is a party, the supreme court shall have original-----	3	2	2	162
Jury. The trial of all crimes, except in cases of impeachment, shall be by -----	3	2	3	162
In all criminal prosecutions the accused shall have a speedy and public trial by. [Amendments] -----	6	—	—	168
All suits at common law, where the value exceeds twenty dollars, shall be tried by. [Amendments]-----	7	—	—	168
Where a fact has been tried by a jury it shall not be re-examined except by the rules of the common law. [Amendments] -----	7	—	—	168
Just compensation. Private property shall not be taken for public use without. [Amendments] -----	5	—	—	168
Justice. Insure domestic tranquillity, etc. To establish. [Preamble] -----	—	—	—	149

L.

Labor, in one state, escaping into another state, shall be delivered up to the party to whom such service or labor may be due. Fugitives from service or-----	4	2	3	164
Land and naval forces. Congress shall make rules for the government and regulation of the -----	1	8	14	155
Law and fact, with exceptions and under regulations to be made by congress. The supreme court shall have appellate jurisdiction as to -----	3	2	2	162
Law of the land. The constitution, the laws made in pursuance thereof, and treaties of the United States, shall be the supreme -----	6	—	2	165
The judges in every state shall be bound thereby-----	6	—	2	165
Law of nations. Congress shall provide for punishing offenses against the -----	1	8	10	155
Laws. Congress shall provide for calling forth the militia to suppress insurrection, repel invasion, and to execute the -----	1	8	15	155
Laws and treaties of the United States. The judicial power shall extend to all cases in law and equity arising under the constitution or the -----	3	2	1	161
Laws necessary to carry into execution the powers vested in the government, or in any department or officer of the United States. Congress shall make all-----	1	8	18	156
Legal tender in payment of debts. No state shall make anything but gold and silver coin a-----	1	10	1	157
Legislation in all cases over such district as may become the seat of the government. Congress shall exercise exclusive -----	1	8	17	155
Over all places purchased for the erection of forts, magazines, arsenals, dockyards, and other needful buildings, congress shall exercise exclusive -----	1	8	17	155
Legislation. Congress shall have power to make all laws necessary and proper for carrying into execution all the powers vested by the constitution in the government of the United States, or in any department or officer thereof -----	1	8	18	156
Legislation. Congress shall have power to enforce the thirteenth amendment, by appropriate. [Amendments]--	13	2	—	170
Congress shall have power to enforce the fourteenth amendment by appropriate. [Amendments] -----	14	5	—	171

	Art.	Sec.	Cl.	Page
Legislation. Congress shall have power to enforce the fifteenth amendment by appropriate. [Amendments]....	15	2	—	173
Legislative powers herein granted shall be vested in congress. All	1	1	—	150
Legislature, or the executive (when the legislature cannot be convened). The United States shall protect each state against invasion and domestic violence, on the application of the	5	—	—	165
Legislatures of two-thirds of the states, congress shall call a convention for proposing amendments to the constitution on the application of the	5	—	—	165
Letters of marque and reprisal. Congress shall have power to grant	1	8	11	155
No state shall grant	1	10	1	157
Liberty to ourselves and our posterity, etc. To secure the blessings of. [Preamble]	—	—	—	149
Life, liberty, and property without due process of law. No person shall be compelled in any criminal case to be a witness against himself nor be deprived of. [Amendments]	5	—	—	168
No state shall abridge the privileges or immunities of citizens of the United States, nor deprive any person of. [Amendments]	14	1	—	171
Life or limb for the same offense. No person shall be twice put in jeopardy of. [Amendments]	5	—	—	168
Loss or emancipation of any slave shall be held illegal and void. [Amendments]	14	4	—	171

***M.**

Magazines, arsenals, dockyards, and other needful buildings. Congress shall have exclusive authority over all places purchased for the erection of.....	1	8	17	155
Majority of each house shall constitute a quorum to do business. A	1	5	1	151
But a smaller number may adjourn from day to day and may be authorized to compel the attendance of absent members	1	5	1	151
Majority of all the states shall be necessary to a choice. When the choice of a president shall devolve on the house of representatives, a quorum shall consist of a member or members from two-thirds of the states; but a. [Amendments]	12	—	—	170
When the choice of a vice-president shall devolve on the senate, a quorum shall consist of two-thirds of the whole number of senators, and a majority of the whole member shall be necessary to a choice. [Amendments]	12	—	—	170
Maritime jurisdiction. The judicial power shall extend to all cases of admiralty and	3	2	1	161
Marque and reprisal. Congress shall have power to grant letters of	1	8	11	155
No state shall grant any letters of	1	10	1	157
Maryland entitled to six representatives in the first congress..	1	2	3	150
Massachusetts entitled to eight representatives in the first congress	1	2	3	150
Measures. Congress shall fix the standard of weights and..	1	8	5	154
Meeting of congress. The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day	1	4	2	151
Members of congress and of state legislatures shall be bound by oath or affirmation to support the constitution.....	6	—	3	165

	Art.	Sec.	Cl.	Page
Militia to execute the laws, suppress insurrections, and repel invasions. Congress shall provide for calling forth the Congress shall provide for organizing, arming, and disciplin- ing the	1	8	15	155
.....	1	8	16	155
Congress shall provide for governing such part of them as may be employed by the United States.....	1	8	16	155
Reserving to the states the appointment of the officers and the right to train the militia according to the dis- cipline prescribed by congress	1	8	16	155
A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. [Amendments].....	2	—	—	167
Misdemeanors. The president, vice-president, and all civil officers shall be removed on impeachment for and con- viction of treason, bribery, or other high crimes and...	2	4	—	161
Money on the credit of the United States. Congress shall have power to borrow	1	8	2	153
Regulate the value thereof and of foreign coin. Con- gress shall have power to coin	1	8	5	154
Shall be drawn from the treasury but in consequence of appropriation made by law. No.....	1	9	7	157
Shall be published from time to time. A regular state- ment and account of receipts and expenditures of public For raising and supporting armies. No appropriation of money shall be for a longer term than two years.....	1	9	7	157
.....	1	8	12	155
N.				
Nations. Congress shall have power to regulate commerce with foreign	1	8	3	153
Congress shall provide for punishing offenses against the law of	1	8	10	155
Natural-born citizens , or a citizen at the adoption of the con- stitution, shall be eligible to the office of president. No person except a	2	1	4	159
Naturalization. Congress shall have power to establish a uni- form rule of	1	8	4	154
Naturalized in the United States, and subject to their juris- diction, shall be citizens of the United States and of the states in which they reside. All persons born, or. [Amendments]	14	1	—	171
Naval forces. Congress shall make rules and regulations for the government and regulation of the land and.....	1	8	14	155
Navy. Congress shall have power to provide and maintain a	1	8	13	155
New Hampshire entitled to three representatives in the first congress	1	2	3	150
New Jersey entitled to four representatives in the first con- gress	1	2	3	150
New states may be admitted by congress into this Union....	4	3	1	164
But no new state shall be formed within the jurisdiction of another state without the consent of congress....	4	3	1	164
Nor shall any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures and of congress	4	3	1	164
New York entitled to six representatives in the first congress..	1	2	3	150
Nobility shall be granted by the United States. No title of..	1	9	8	157
No state shall grant any title of.....	1	10	1	157
Nominations for office by the president. The president shall nominate, and, by and with the advice and consent of the senate, shall appoint ambassadors and other public officers	2	2	2	160
He may grant commissions to fill vacancies that happen in the recess of the senate, which shall expire at the end of their next session	2	2	3	160

	Art.	Sec.	Cl.	Page
North Carolina entitled to five representatives in the first congress -----	1	2	3	150
Number of electors for president and vice-president in each state shall be equal to the number of senators and representatives to which such state may be entitled in congress -----	2	1	2	159
O.				
Oath of office of the president of the United States. Form of the -----	2	1	7	160
Oath or affirmation. No warrants shall be issued but upon probable cause, supported by. [Amendments] -----	4	—	—	167
Oath or affirmation to support the constitution. Senators and representatives, members of state legislatures, executive and judicial officers of the United States and of the several states, shall be bound by -----	6	—	3	165
But no religious test shall ever be required as a qualification for office -----	6	—	3	165
The senators when sitting to try impeachment shall be on -----	1	3	6	151
Objections. If he shall not approve it, the president shall return the bill to the house in which it originated with his -----	1	7	2	152
Obligation of contracts. No state shall pass any <i>ex post facto</i> law, or law impairing the -----	1	10	1	157
Obligations incurred in aid of insurrection or rebellion against the United States to be held illegal and void. All debts or. [Amendments] -----	14	4	—	171
Offense. No person shall be twice put in jeopardy of life or limb for the same. [Amendments] -----	5	—	—	171
Offenses against the law of nations. Congress shall provide for punishing -----	1	8	10	155
Offenses against the United States, except in cases of impeachment. The president may grant reprieves or pardons for -----	2	2	1	160
Office under the United States. No person shall be a member of either house while holding any civil -----	1	6	2	152
No senator or representative shall be appointed to any office under the United States which shall have been created, or its emoluments increased, during the term for which he is elected -----	1	6	2	152
Or title of any kind from any king, prince, or foreign state, without the consent of congress. No person holding any office under the United States shall accept of any present, emolument -----	1	9	8	157
Office of president, in case of his removal, death, resignation, or inability, shall devolve on the vice-president. The powers and duties of the -----	2	1	5	159
During the term of four years. The president and vice-president shall hold -----	2	1	1	159
Of trust or profit under the United States shall be an elector for president and vice-president. No person holding an -----	2	1	2	159
Office, civil or military under the United States, or any state, who had taken an oath as a legislative, executive, or judicial officer of the United States, or of any state, and, afterwards engaged in insurrection or rebellion. No person shall be a senator, representative, or presidential elector, or hold any. [Amendments] -----	14	3	—	171
Officers in the president alone, in the courts of law, or in the heads of departments. Congress may vest the appointment of inferior -----	2	2	2	160

	Art.	Sec.	Cl.	Page
Officers of the United States shall be removed on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors. The president, vice-president, and all civil	2	4	—	161
The house of representatives shall choose their speaker and other	1	2	5	150
The senate, in the absence of the vice-president, shall choose a president pro tempore, and also their other...	1	3	5	151
Offices becoming vacant in the recess of the senate may be filled by the president, the commissions to expire at the end of the next session.....	2	2	3	160
One-fifth of the members present, be entered on the journal of each house. The yeas and nays shall, at the desire of	1	5	3	151
Opinion of the principal officers in each of the executive departments on any subject relating to their duties. The president may require the written.....	2	2	1	160
Order , resolution or vote (except on a question of adjournment), requiring the concurrence of the two houses, shall be presented to the president. Every.....	1	7	3	152
Original jurisdiction , in all cases affecting ambassadors, other public ministers and consuls, and in which a state may be a party. The supreme court shall have.....	3	2	2	162
Overt act , or on confession in open court. Conviction of treason shall be on the testimony of two witnesses to the..	3	3	1	163
P.				
Pardons , except in cases of impeachment. The president may grant reprieves and	2	2	1	160
Patent rights to inventors. Congress may pass laws for securing	1	8	8	154
Peace . Members of congress shall not be privileged from arrest for treason, felony, and breach of the.....	1	6	1	152
No state shall, without the consent of congress, keep troops or ships of war in time of.....	1	10	3	158
No soldier shall be quartered in any house without the consent of the owner in time of. [Amendments]....	3	—	—	167
Pensions and bounties shall not be questioned. The validity of the public debt incurred in suppressing insurrection and rebellion against the United States, including the debt for. [Amendments]	14	4	—	171
Pennsylvania entitled to eight representatives in the first congress	1	2	3	150
People , peaceably to assemble and petition for redress of grievances shall not be abridged by congress. The right of the. [Amendments]	1	—	—	167
To keep and bear arms shall not be infringed. A well-regulated militia being necessary to the security of a free state, the right of the. [Amendments].....	2	—	—	167
To be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated. The right of the. [Amendments]	4	—	—	167
People . The enumeration of certain rights in the constitution shall not be held to deny or disparage others retained by the. [Amendments]	9	—	—	169
Powers not delegated to the United States, nor prohibited to the states, are reserved to the states or to the. [Amendments]	10	—	—	169
Perfect union , etc. To establish a more. [Preamble].....	—	—	—	149
Persons , houses, papers, and effects against unreasonable searches and seizures. The people shall be secure in their. [Amendments]	4	—	—	167

	Art.	Sec.	Cl.	Page
Persons as any state may think proper to admit, shall not be prohibited prior to 1808. The migration or importation of such	1	9	1	156
But a tax or duty of ten dollars shall be imposed on the importation or each of such	1	9	1	156
Petition for the redress of grievances. Congress shall make no law abridging the right of the people peaceably to assemble and to. [Amendments]	1	—	—	167
Piracies and felonies committed on the high seas. Congress shall define and punish	1	8	10	155
Place than that in which the two houses shall be sitting. Neither house during the session shall, without the consent of the other, adjourn for more than three days, nor to any other	1	5	4	152
Places of choosing senators. Congress may by law make or alter regulations for the election of senators and representatives, except as to the.....	1	4	1	151
Ports of one state over those of another. Preference shall not be given by any regulation of commerce or revenue to the	1	9	6	156
Ports. Vessels clearing from the ports of one state shall not pay duties in another	1	9	6	156
Post-offices and post-roads. Congress shall establish.....	1	8	7	154
Powers herein granted shall be vested in congress. All legislative	1	1	—	150
Powers vested by the constitution in the government or in any department or office of the United States. Congress shall make all laws necessary to carry into execution the	1	8	18	156
Powers and duties of the office shall devolve on the vice-president, on the removal, death, resignation, or inability of the president. The	2	1	5	159
Powers not delegated to the United States nor prohibited to the states are reserved to the states and to the people. [Amendments]	10	—	—	169
The enumeration of certain rights in this constitution shall not be held to deny or disparage others retained by the people. [Amendments]	9	—	—	169
Preference, by any regulation of commerce or revenue, shall not be given to the ports of one state over those of another	1	9	6	156
Prejudice, any claims of the United States or of any particular state in the territory or property of the United States. Nothing in this constitution shall.....	4	3	2	164
Present, emolument, office, or title of any kind whatever from any king, prince, or foreign state. No person holding any office under the United States shall, without the consent of congress, accept any.....	1	9	8	157
Presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service. No person shall be held to answer for a capital or otherwise infamous crime unless on a. [Amendments]	5	—	—	168
President of the United States. The senate shall choose a president pro tempore when the vice-president shall exercise the office of	1	3	5	151
The chief justice shall preside upon the trial of the....	1	3	6	151
Shall approve and sign all bills passed by congress before they shall become laws	1	7	2	152
Shall return to the house in which it originated, with his objections, any bill which he shall not approve....	1	7	2	152

	Art.	Sec.	Cl.	Page
President of the United States. If not returned within ten days (Sundays excepted), it shall become a law, unless congress shall adjourn before the expiration of that time	1	7	2	152
Every order, resolution, or vote which requires the concurrence of both houses, except on the question of adjournment, shall be presented to the.....	1	7	3	152
If disapproved by him, shall be returned and proceeded on as in the case of a bill.....	1	7	3	152
The executive power shall be vested in a.....	2	1	1	159
He shall hold his office during the term of four years..	2	1	1	159
In case of the removal of the president from office, or of his death, resignation or inability to discharge the duties of his office, the vice-president shall perform the duties of	2	1	5	159
Congress may declare, by law, in the case of the removal, death, resignation, or inability of the president, what officer shall act as	2	1	5	159
The president shall receive a compensation which shall not be increased nor diminished during his term, nor shall he receive any other emolument from the United States	2	1	6	159
Before he enter upon the execution of his office he shall take an oath of office	2	1	7	160
Shall be commander-in-chief of the army and navy and of the militia of the states when called into actual service	2	2	1	160
He may require the opinion, in writing, of the principal officer in each of the executive departments.....	2	2	1	160
He may grant reprieves or pardons for offenses, except in cases of impeachment	2	2	1	160
He may make treaties, by and with the advice and consent of the senate, two-thirds of the senators present concurring	2	2	2	160
He may appoint, by and with the advice and consent of the senate, ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers whose appointments may be authorized by law and not herein provided for	2	2	2	160
Congress may vest the appointment of inferior officers in the	2	2	2	160
He may fill up all vacancies that may happen in the recess of the senate by commissions which shall expire at the end of their next session	2	2	3	160
He shall give information to congress of the state of the Union, and recommend measures	2	3	—	160
On extraordinary occasions he may convene both houses or either house of congress	2	3	—	160
In case of disagreement between the two houses as to the time of adjournment, he may adjourn them to such time as he may think proper.....	2	3	—	160
He shall receive ambassadors and other public ministers.	2	3	—	160
He shall take care that the laws be faithfully executed—	2	3	—	160
He shall commission all the officers of the United States.	2	3	—	160
On impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors, shall be removed from office. The.....	2	4	—	161
No person except a natural-born citizen, or a citizen of the United States at the adoption of the constitution, shall be eligible to the office of.....	2	1	4	159
No person who shall not have attained the age of thirty-five years and been fourteen years a citizen of the United States shall be eligible to the office of.....	2	1	4	159

	Art.	Sec.	Cl.	Page
President and vice-president. Manner of choosing. Each state, by its legislature, shall appoint a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the congress	2	1	2	159
No senator or representative or person holding an office of trust or profit under the United States shall be an elector	2	1	2	159
Congress may determine the time of choosing the electors and the day on which they shall give their votes, which day shall be the same throughout the United States	2	1	3	159
The electors shall meet in their respective states and vote by ballot for president and vice-president, one of whom at least, shall not be an inhabitant of the same state with themselves [Amendments]	12	—	—	170
They shall name in distinct ballots the person voted for as president and the person voted for as vice-president. [Amendments]	12	—	—	170
They shall make distinct lists of the persons voted for as president and as vice-president, which they shall sign and certify and transmit sealed to the president of the senate at the seat of government. [Amendments].....	12	—	—	170
The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates and the votes shall then be counted. [Amendments]	12	—	—	170
The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed. [Amendments] ..	12	—	—	170
If no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. [Amendments]	12	—	—	170
In choosing the president, the votes shall be taken by states, the representation from each state having one vote. [Amendments]	12	—	—	170
A quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. [Amendments]	12	—	—	170
But if no choice shall be made before the 4th of March next following, then the vice-president shall act as president, as in the case of the death or disability of the president. [Amendments]	12	—	—	170
President of the senate, but shall have no vote unless the senate be equally divided. The vice-president shall be	1	3	4	151
President pro tempore. In the absence of the vice-president the senate shall choose a	1	3	5	151
When the vice-president shall exercise the office of president of the United States, the senate shall choose a...	1	3	5	151
Press. Congress shall pass no law abridging the freedom of speech or of the. [Amendments]	1	—	—	167
Previous condition of servitude. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or. [Amendments]	15	1	—	173
Private property shall not be taken for public use without just compensation. [Amendments]	5	—	—	168

	Art.	Sec.	Cl.	Page
Privilege. Senators and representatives shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same	1	6	1	152
They shall not be questioned for any speech or debate in either house or in any other place	1	6	1	152
Privileges and immunities of citizens of the United States. The citizens of each state shall be entitled to all the privileges and immunities of the citizens of the several states	4	2	1	163
Privileges and immunities of citizens of the United States. No soldier shall be quartered in any house without the consent of the owner in time of peace. [Amendments]	3	—	—	167
No person shall be twice-put in jeopardy of life and limb for the same offense. [Amendments].....	5	—	—	168
All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state in which they reside. [Amendments]	14	1	—	171
No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. [Amendments]	14	1	—	171
No state shall deprive any person of life, liberty, or property without due process of law. [Amendments].....	14	1	—	171
Nor deny to any person within its jurisdiction the equal protection of its laws. [Amendments].....	14	1	—	171
Prizes captured on land or water. Congress shall make rules concerning	1	8	11	155
Probable cause. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue for such but upon. [Amendments]	4	—	—	167
Process of law. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due. [Amendments]	5	—	—	168
No state shall deprive any person of life, liberty, or property without due. [Amendments]	14	1	—	171
Process for obtaining witnesses in his favor. In all criminal prosecutions the accused shall have. [Amendments]..	6	—	—	168
Progress of science and useful arts. Congress shall have power to promote the	1	8	8	154
Property of the United States. Congress may dispose of and make all needful rules and regulations respecting the territory or	4	3	2	164
Property, without due process of law. No person shall be compelled in any criminal case to be a witness against himself; nor shall he be deprived of his life, liberty, or. [Amendments]	5	—	—	168
No state shall abridge the privileges or immunities of citizens of the United States, nor deprive any person of his life, liberty, or. [Amendments]	14	1	—	171
Prosecutions. The accused shall have a speedy and public trial in all criminal. [Amendments].....	6	—	—	168
He shall be tried by a jury in the state or district where the crime was committed. [Amendments].....	6	—	—	168
He shall be informed of the nature and cause of the accusation. [Amendments]	6	—	—	168
He shall be confronted with the witnesses against him. [Amendments]	6	—	—	168

	Art.	Sec.	Cl.	Page
Prosecutions. He shall have compulsory process for obtaining witnesses. [Amendments]	6	—	—	168
He shall have counsel for his defense. [Amendments]..	6	—	—	168
Protection of the laws. No state shall deny to any person within its jurisdiction the equal. [Amendments]	14	1	—	171
Public debt of the United States incurred in suppressing insurrection or rebellion shall not be questioned. The validity of the. [Amendments]	14	4	—	171
Public safety may require it. The writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the	1	9	2	156
Public trial by jury. In all criminal prosecutions the accused shall have a speedy and. [Amendments].....	6	—	—	168
Public use. Private property shall not be taken for, without just compensation. [Amendments]	5	—	—	168
Punishment according to law. Judgment in cases of impeachment shall not extend further than to removal from, and disqualification for, office; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and	1	3	7	151
Punishments inflicted. Excessive bail shall not be required nor excessive fines imposed nor cruel and unusual. [Amendments]	8	—	—	169

Q.

Qualification for office. No religious test shall ever be required as a	6	—	3	165
Qualifications of electors of members of the house of representatives shall be the same as electors for the most numerous branch of the state legislature	1	2	1	150
Qualifications of members of the house of representatives. They shall be twenty-five years of age, seven years a citizen of the United States, and an inhabitant of the state in which chosen	1	2	2	150
Of senators. They shall be thirty years of age, nine years a citizen of the United States, and an inhabitant of the state in which chosen	1	3	3	151
Of its own members. Each house shall be the judge of the election, returns, and	1	5	1	151
Of the president. No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of the constitution, shall be eligible to the office of president	2	1	4	159
Of members of the house of representatives. Neither shall any person be eligible to the office of president who shall not have attained the age of thirty-five years, and been fourteen years a resident within the United States	2	1	4	159
Of the vice-president. No person constitutionally ineligible to the office of president shall be eligible to that of vice-president. [Amendments]	12	—	—	170
Quartered in any house without the consent of the owner in time of peace. No soldier shall be. [Amendments]....	3	—	—	167
Quorum to do business. A majority of each house shall constitute a	1	5	1	151
But a smaller number than a quorum may adjourn from day to day and may be authorized to compel the attendance of absent members	1	5	1	151
Of the house of representatives for choosing a president shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. [Amendments].....	12	—	—	170

	Art.	Sec.	Cl.	Page
Quorum to elect a vice-president by the senate. Two-thirds of the whole number of senators shall be a. [Amendments]	12	—	—	170
A majority of the whole number shall be necessary to a choice. [Amendments]	12	—	—	170
R.				
Race, color, or previous condition of servitude. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of. [Amendments]	15	1	—	173
Ratification of amendments to the constitution shall be by the legislatures of three-fourths of the several states or by conventions in three-fourths of the states, accordingly as congress may propose	5	—	—	165
Ratification of the conventions of nine states shall be sufficient to establish the constitution between the states so ratifying the same	7	—	—	165
Ratio of representation until the first enumeration under the constitution shall be made not to exceed one for every thirty thousand	1	2	3	150
Ratio of representation shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, including Indians not taxed. [Amendments]	14	2	—	171
But when the right to vote for presidential electors or members of congress, or the legislative, executive, and judicial officers of the state, except for engaging in rebellion or other crime, shall be denied or abridged by a state, the basis of representation shall be reduced therein in the proportion of such denial or abridgment of the right to vote. [Amendments]	14	2	—	171
Rebellion against the United States. Persons who, while holding certain Federal and state offices, took an oath to support the constitution, afterwards engaged in insurrection or rebellion, disabled from holding office under the United States. [Amendments]	14	3	—	171
But congress may by a vote of two-thirds of each house remove such disability. [Amendments]	14	3	—	171
Debts incurred for pensions and bounties for services in suppressing the rebellion shall not be questioned. [Amendments]	14	4	—	171
All debts and obligations incurred in aid of the rebellion, and all claims for the loss or emancipation of slaves, declared and held to be illegal and void. [Amendments]	14	4	—	171
Rebellion or invasion. The writ of habeas corpus shall not be suspended except when the public safety may require it in cases of	1	9	2	156
Receipts and expenditures of all public money shall be published from time to time. A regular statement of.....	1	9	7	157
Recess of the senate. The president may grant commissions, which shall expire at the end of the next session, to fill vacancies that may happen during the.....	2	2	3	160
Reconsideration of a bill returned by the president with his objections. Proceedings to be had upon the	1	7	2	152
Records , and judicial proceedings of every other state. Full faith and credit shall be given in each state to the acts	4	1	—	163
Congress shall prescribe the manner of proving such acts, records and proceedings	4	1	—	163

	Art.	Sec.	Cl.	Page
Redress of grievances. Congress shall make no law abridging the right of the people peaceably to assemble and to petition for the. [Amendments] -----	1	—	—	167
Regulations, except as to the places of choosing senators. The time, places, and manner of holding elections for senators and representatives shall be prescribed by the legislatures of the states, but congress may at any time by law make or alter such -----	1	4	1	151
Regulations of commerce or revenue. Preference to the ports of one state over those of another shall not be given by any -----	1	9	6	156
Religion or prohibiting the free exercise thereof. Congress shall make no law respecting the establishment of. [Amendments] -----	1	—	—	167
Religious test shall ever be required as a qualification for any office or public trust under the United States. No -----	6	—	3	165
Removal of the president from office, the same shall devolve on the vice-president. In case of the -----	2	1	5	159
Representation. No state, without its consent, shall be deprived of its equal suffrage in the senate -----	5	—	—	165
Representation and direct taxation, how apportioned, among the several states. [This provision is changed by the 14th amendment, section 2.] -----	1	2	3	150
Representation until the first enumeration under the constitution not to exceed one for every thirty thousand. The ratio of -----	1	2	3	150
Representation in any state. The executive thereof shall issue writs of election to fill vacancies in the -----	1	2	4	150
Representation among the several states shall be according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. The ratio of. [Amendments] -----	14	2	—	171
But where the right to vote in certain Federal and state elections is abridged for any cause other than rebellion or other crime, the basis of representation shall be reduced. [Amendments] -----	14	2	—	171
Representatives. Congress shall consist of a senate and house of -----	1	1	—	150
Qualifications of electors of members of the house of -----	1	2	1	150
No person shall be a representative who shall not have attained the age of twenty-five years, been seven years a citizen of the United States, and an inhabitant of the state in which he shall be chosen.-----	1	2	2	150
And direct taxes, how apportioned among the several states. [Amended by 14th amendment, section 2.]-----	1	2	3	150
Shall choose their speaker and other officers. The house of -----	1	2	5	150
Shall have the sole power of impeachment. The house of Executives of the states shall issue writs of election to fill vacancies in the house of -----	1	2	4	150
The times, places, and manner of choosing representatives shall be prescribed by the legislatures of the states -----	1	4	1	151
But congress may at any time by law make or alter such regulations except as to the places of choosing senators -----	1	4	1	151
And senators shall receive a compensation to be ascertained by law -----	1	6	1	152

	Art.	Sec.	Cl.	Page
Representatives. Shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during attendance at the session of the house, and in going to and returning from the same	1	6	1	152
Shall not be questioned in any other place for any speech or debate. Members of the house of	1	6	1	152
No member shall be appointed during his term to any civil office which shall have been created, or the emoluments of which shall have been increased, during such term	1	6	2	152
No person holding any office under the United States shall, while holding such office, be a member of the house of	1	6	2	152
All bills for raising revenue shall originate in the house of	1	7	1	152
No senator or representative shall be an elector for president or vice-president	2	1	2	159
Representatives shall be bound by an oath or affirmation to support the constitution of the United States. The senators and	6	—	3	165
Representatives among the several states. Provisions relative to the apportionment of. [Amendments]	14	2	—	171
Representatives and senators. Prescribing certain disqualifications for office as. [Amendments]	14	3	—	171
But congress may, by a vote of two-thirds of each house, remove such disqualification. [Amendments]	14	3	—	171
Reprives and pardons except in cases of impeachment. The president may grant	2	2	1	160
Reprisal. Congress shall have power to grant letters of marque and	1	8	11	155
No state shall grant any letters of marque and	1	10	1	157
Republican form of government. The United States shall guarantee to every state in this Union a	4	4	—	164
And shall protect each of them against invasion; and on the application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence	4	4	—	164
Reserved rights of the states and the people. The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people. [Amendments]	9	—	—	169
The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people. [Amendments]	10	—	—	169
Resignation, or inability of the president, the duties and powers of his office shall devolve on the vice-president. In case of the death	2	1	5	159
Resignation, or inability of the president. Congress may by law provide for the case of the removal, death	2	1	5	159
Resolution, or vote (except on a question of adjournment), requiring the concurrence of the two houses shall, before it becomes a law, be presented to the president. Every order	1	7	3	152
Revenue shall originate in the house of representatives. All bills for raising	1	7	1	152
Revenue. Preference shall not be given to the ports of one state over those of another by any regulations of commerce or	1	9	6	156
Rhode Island entitled to one representative in the first congress	1	2	3	150

	Art.	Sec.	Cl.	Page
Right of petition. Congress shall make no law abridging the right of the people peaceably to assemble and to petition for the redress of grievances. [Amendments]-----	1	—	—	167
Right to keep and bear arms. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. [Amendments] -----	2	—	—	167
Rights in the constitution shall not be construed to deny or disparage others retained by the people. The enumeration of certain. [Amendments] -----	9	—	—	169
Rights not delegated to the United States nor prohibited to the states are reserved to the states or to the people. [Amendments] -----	10	—	—	169
Rules of its proceedings. Each house may determine the....	1	5	2	151
Rules and regulations respecting the territory or other property of the United States. Congress shall dispose of and make all needful -----	4	3	2	164
Rules of the common law. All suits involving over twenty dollars shall be tried by jury according to the. [Amendments] -----	7	—	—	168
No fact tried by a jury shall be re-examined except according to the. [Amendments] -----	7	—	—	168

S.

Sciences and the useful arts by securing to authors and inventors the exclusive right to their writings and discoveries. Congress shall have power to promote the progress of -----	1	8	8	154
Searches and seizures shall not be violated. The right of the people to be secure against unreasonable. [Amendments] -----	4	—	—	167
And no warrant shall be issued but upon probable cause, on oath or affirmation, describing the place to be searched and the person or things to be seized. [Amendments] -----	4	—	—	167
Seat of government. Congress shall exercise exclusive legislation in all cases over such district as may become the -----	1	8	17	155
Securities and current coin of the United States. Congress shall provide for punishing the counterfeiting of the...	1	8	6	154
Security of a free state. The right of the people to keep and bear arms shall not be infringed. A well-regulated militia being necessary to the. [Amendments]-----	2	—	—	167
Senate and house of representatives. The congress of the United States shall consist of a -----	1	1	—	150
Senate of the United States. The senate shall be composed of two senators from each state, chosen by the legislature for six years -----	1	3	1	150
If vacancies happen during the recess of the legislature of a state, the executive thereof may make temporary appointments until the next meeting of the legislature -----	1	3	2	150
The vice-president shall be president of the senate, but shall have no vote unless the senate be equally divided. -----	1	3	4	151
The senate shall choose their own officers, and also a president pro tempore in the absence of the vice-president or when he shall exercise the office of president. -----	1	3	5	151
The senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation -----	1	3	6	151

	Art.	Sec.	Cl.	Page
Senate of the United States. When the president of the United States is tried the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present -----	1	3	6	151
It shall be the judge of elections, returns, and qualifications of its own members -----	1	5	1	151
A majority shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members -----	1	5	1	151
It may determine the rules of its proceedings, punish a member for disorderly behavior, and with the concurrence of two-thirds expel a member -----	1	5	2	151
It shall keep a journal of its proceedings and from time to time publish the same, except such parts as may in their judgment require secrecy -----	1	5	3	152
It shall not adjourn for more than three days during a session without the consent of the other house -----	1	5	4	152
It may propose amendments to bills for raising revenue, but such bills shall originate in the house of representatives -----	1	7	1	152
The senate shall advise and consent to the ratification of all treaties, provided two-thirds of the members present concur -----	2	2	2	160
It shall advise and consent to the appointment of ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers not herein otherwise provided for -----	2	2	2	160
It may be convened by the president on extraordinary occasions -----	2	3	—	160
No state, without its consent, shall be deprived of its equal suffrage in the senate -----	5	—	—	165
Senators. They shall immediately after assembling, under their first election, be divided into three classes, so that the seats of one-third shall become vacant at the expiration of every second year -----	1	3	2	150
No person shall be a senator who shall not be thirty years of age, nine years a citizen of the United States, and an inhabitant when elected of the state for which he shall be chosen -----	1	3	3	151
The time, places, and manner of choosing senators may be fixed by the legislature of a state, but congress may by law make or alter such regulations, except as to the places of choosing -----	1	4	1	151
If vacancies happen during the recess of the legislature of a state, the executive thereof may make temporary appointments until the next meeting of the legislature -----	1	3	2	150
They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of the senate and in going to and returning from the same -----	1	6	1	152
Senators and representatives shall receive a compensation to be ascertained by law -----	1	6	1	152
Senators and representatives shall not be questioned for any speech or debate in either house in any other place -----	1	6	1	152
No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the United States which shall have been created, or of which the emoluments shall have been increased, during such term -----	1	6	2	152

	Art.	Sec.	Cl.	Page
Senators. No person holding any office under the United States shall be a member of either house during his continuance in office	1	6	2	152
No senator or representative or person holding an office of trust or profit under the United States shall be an elector for president and vice-president	2	1	2	159
Senators and representatives shall be bound by an oath or affirmation to support the constitution	6	—	3	165
No person shall be a senator or representative who having, as a Federal or state officer, taken an oath to support the constitution, afterwards engaged in rebellion against the United States. [Amendments]	14	3	—	171
But congress may, by a vote of two-thirds of each house, remove such disability. [Amendments].....	14	3	—	171
Service or labor in one state, escaping into another state, shall be delivered up to the party to whom such service or labor may be due. Fugitives from	4	2	3	164
Servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist in the United States or any place subject to their jurisdiction. Neither slavery nor involuntary. [Amendments].....	13	1	—	170
Servitude. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of. [Amendments]	15	1	—	173
Ships of war in time of peace, without the consent of congress. No state shall keep troops or	1	10	3	158
Silver coin a tender in payment of debts. No state shall make anything but gold and	1	10	1	157
Slave. Neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion, or any claim for the loss or emancipation of any. [Amendments]	14	4	—	171
Slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist in the United States, or any places subject to their jurisdiction. Neither. [Amendments]	13	1	—	170
Soldiers shall not be quartered, in time of peace, in any house, without the consent of the owner. [Amendments].....	3	—	—	167
South Carolina entitled to five representatives in the first congress	1	2	3	150
Speaker and other officers. The house of representatives shall choose their	1	2	5	150
Speech or of the press. Congress shall make no law abridging the freedom of. [Amendments]	1	—	—	167
Speedy and public trial by jury. In all criminal prosecutions the accused shall have a. [Amendments].....	6	—	—	168
Standard of weights and measures. Congress shall fix the....	1	8	5	154
State of the Union. The president shall, from time to time, give congress information of the	2	3	—	160
State legislatures, and all executive and judicial officers of the United States, shall take an oath to support the constitution. All members of the several.....	6	—	3	165
States. When vacancies happen in the representation from any state, the executive authority shall issue writs of election to fill such vacancies	1	2	4	150
Congress shall have power to regulate commerce among the several	1	8	3	153
No state shall enter into any treaty, alliance, or confederation	1	10	1	157
Shall not grant letters of marque and reprisal	1	10	1	157

	Art.	Sec.	Cl.	Page
States. Shall not coin money	1	10	1	157
Shall not emit bills of credit	1	10	1	157
Shall not make anything but gold and silver coin a tender in payment of debts	1	10	1	157
Shall not pass any bill of attainder, <i>ex post facto</i> law, or law impairing the obligation of contracts	1	10	1	157
Shall not grant any title of nobility	1	10	1	157
Shall not, without the consent of congress, lay any duties on imports or exports, except what may be absolutely necessary for executing its inspection laws	1	10	2	158
Shall not, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with an- other state or with a foreign power, or engage in war unless actually invaded or in such imminent danger as will not admit of delay	1	10	3	158
Full faith and credit in every state shall be given to the public acts, records, and judicial proceedings of each state	4	1	—	163
Congress shall prescribe the manner of proving such acts, records, and proceedings	4	1	—	163
Citizens of each state shall be entitled to all privileges and immunities of citizens in the several states	4	2	1	163
New states may be admitted by congress into this Union.	4	3	1	164
But no new state shall be formed or erected within the jurisdiction of another state	4	3	1	164
Nor any state formed by the junction of two or more states or parts of states, without the consent of the leg- islatures as well as of congress	4	3	1	164
No state shall be deprived, without its consent, of its equal suffrage in the senate	5	—	—	165
Three-fourths of the legislatures of the states or conven- tions of three-fourths of the states, as congress shall prescribe, may ratify amendments to the constitution..	5	—	—	165
The United States shall guarantee a republican form of government to every state in the Union.....	4	4	—	165
They shall protect each state against invasion	4	4	—	165
And on application of the legislature, or the executive (when the legislature cannot be convened), against do- mestic violence	4	4	—	165
The ratification by nine states shall be sufficient to estab- lish the constitution between the states so ratifying the same	7	—	—	165
When the choice of president shall devolve on the house of representatives, the vote shall be taken by states. [Amendments]	12	—	—	170
But in choosing the president the vote shall be taken by states, the representation from each state having one vote. [Amendments]	12	—	—	170
A quorum for choice of president shall consist of a mem- ber or members from two-thirds of the states and a majority of all the states shall be necessary to a choice. [Amendments]	12	—	—	170
States or to the people. Powers not delegated to the United States, nor prohibited to the states are reserved to the. [Amendments]	10	—	—	169
Suffrage in the senate. No state shall be deprived without its consent of its equal	5	—	—	165

	Art.	Sec.	Cl.	Page
Suits at common law, where the value in controversy shall exceed \$20, shall be tried by jury. [Amendments]-----	7	—	—	168
In law or equity against one of the states, by citizens of another state, or by citizens of a foreign state. The judicial power of the United States shall not extend to. [Amendments] -----	11	—	—	169
Supreme court. Congress shall have power to constitute tribunals inferior to the -----	1	8	9	155
Supreme court, and such inferior courts as congress may establish. The judicial power of the United States shall be vested in one -----	3	1	—	161
Supreme court. The judges of the supreme and inferior courts shall hold their offices during good behavior -----	3	1	—	161
The compensation of the judges shall not be diminished during their continuance in office -----	3	1	—	161
Shall have original jurisdiction. In all cases affecting ambassadors, other public ministers and consuls, and in which a state may be a party, the -----	3	2	2	162
Shall have appellate jurisdiction, both as to law and the fact, with such exceptions and regulations as congress may make. The -----	3	2	2	162
Supreme law of the land. This constitution, the laws made in pursuance thereof, and the treaties of the United States, shall be the -----	6	—	2	165
The judges in every state shall be bound thereby-----	6	—	2	165
Suppress insurrections and repel invasions. Congress shall provide for calling forth the militia to execute the laws -----	1	8	15	155
Suppression of insurrection or rebellion shall not be questioned. The public debt, including the debt for pensions and bounties, incurred in the. [Amendments]---	14	4	—	171

T.

Tax shall be laid unless in proportion to the census or enumeration. No capitation or other direct -----	1	9	4	156
Tax or duty shall be laid on articles exported from any state. No -----	1	9	5	156
Taxes (direct) and representatives, how apportioned among the several states. [See 14th amendment, section 2]--	1	2	3	150
Taxes, duties, imposts, and excises. Congress shall have power to lay -----	1	8	1	153
They shall be uniform throughout the United States.----	1	8	1	153
Temporary appointments until the next meeting of the legislature. If vacancies happen in the senate in the recess of the legislature of a state, the executive of the state may make -----	1	3	2	150
Tender in payment of debts. No state shall make anything but gold and silver coin a -----	1	10	1	157
Term of four years. The president and vice-president shall hold their offices for the -----	2	1	1	159
Term for which he is elected. No senator or representative shall be appointed to any office under the United States which shall have been created or its emoluments increased during the -----	1	6	2	152
Territory or other property of the United States. Congress shall dispose of and make all needful rules and regulations respecting the -----	4	3	2	164
Test as a qualification for any office or public trust shall ever be required. No religious -----	6	—	3	165
Testimony of two witnesses to the same overt act, or on confession in open court. No person shall be convicted of treason except on the -----	3	3	1	163

	Art.	Sec.	Cl.	Page
Three-fourths of the legislatures of the states, or conventions in three-fourths of the states, as congress shall prescribe, may ratify amendments to the constitution....	5	—	—	165
Tie. The vice-president shall have no vote unless the senate be equally divided	1	3	4	151
Times, places, and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof	1	4	1	151
But congress may at any time by law make or alter such regulations, except as to the places of choosing senators	1	4	1	150
Title of nobility. The United States shall not grant any....	1	9	8	157
No state shall grant any	1	10	1	157
Title of any kind, from any king, prince, or foreign state, without the consent of congress. No person holding any office under the United States shall accept of any...	1	9	8	157
Tonnage without the consent of congress. No state shall lay any duty of	1	10	3	158
Tranquillity, provide for common defense, etc. To insure domestic. [Preamble]	—	—	—	149
Treason shall consist only in levying war against the United States, or in adhering to their enemies, giving them aid and comfort	3	3	1	163
Treason. No person shall, unless on the testimony of two witnesses to the same overt act, or on confession in open court, be convicted of	3	3	1	163
Congress shall have power to declare the punishment of... ..	3	3	2	163
Shall not work corruption of blood. Attainder of.....	3	3	2	163
Shall not work forfeiture, except during the life of the person attainted. Attainder of	3	3	2	163
Treason, bribery, or other high crimes and misdemeanors. The president, vice-president, and all civil officers shall be removed from office on impeachment for and conviction of	2	4	—	161
Treason, felony, and breach of the peace. Senators and representatives shall be privileged from arrest while attending or while going to or returning from the sessions of congress, except in cases of	1	6	1	152
Treasury, but in consequence of appropriations made by law. No money shall be drawn from the	1	9	7	157
Treaties. The president shall have power, with the advice and consent of the senate, provided two-thirds of the senators present concur, to make	2	2	2	160
The judicial power shall extend to all cases arising under the constitution, laws, and	3	2	1	161
They shall be the supreme law of the land, and the judges in every state shall be bound thereby	6	—	2	165
Treaty, alliance, or confederation. No state shall enter into any	1	10	1	157
Trial, judgment, and punishment according to law. Judgment in cases of impeachment shall not extend further than to removal from, and disqualification for, office; but the party convicted shall nevertheless be liable and subject to indictment	1	3	7	151
Trial by jury. All crimes, except in cases of impeachment, shall be tried by jury	3	2	3	162
Such trial shall be held in the state within which the crime shall have been committed	3	2	3	162
But when not committed within a state, the trial shall be at such place as congress may by law have directed....	3	2	3	162
In all criminal prosecutions the accused shall have a speedy and public. [Amendments]	6	—	—	168
Suits at common law, when the amount exceeds \$20, shall be by. [Amendments]	7	—	—	168

	Art.	Sec.	Cl.	Page
Tribunals inferior to the supreme court. Congress shall have power to constitute	1	8	9	155
Troops or ships of war in time of peace without the consent of congress. No state shall keep	1	10	3	158
Trust and profit under the United States, shall be an elector for president and vice-president. No senator, representative, or person holding any office of	2	1	2	159
Two-thirds of the members present. No person shall be convicted on impeachment without the concurrence of.....	1	3	6	151
Two-thirds, may expel a member. Each house, with the concurrence of	1	5	2	151
Two-thirds. A bill returned by the president with his objections may be repassed by each house by a vote of	1	7	2	152
Two-thirds of the senators present concur. The president shall have power, by and with the advice and consent of the senate, to make treaties, provided	2	2	2	160
Two-thirds of the legislatures of the several states. Congress shall call a convention for proposing amendments to the constitution on the application of	5	—	—	165
Two-thirds of both houses shall deem it necessary. Congress shall propose amendments to the constitution whenever	5	—	—	165
Two-thirds of the states. When the choice of a president shall devolve on the house of representatives, a quorum shall consist of a member or members from. [Amendments]	12	—	—	170
Two-thirds of the whole number of senators. A quorum of the senate, when choosing a vice-president, shall consist of. [Amendments]	12	—	—	170
Two-thirds, may remove the disabilities imposed by the third section of the fourteenth amendment. Congress, by a vote of. [Amendments]	14	3	—	171
Two years. Appropriations for raising and supporting armies shall not be for a longer term than	1	8	12	155

U.

Union. To establish a more perfect. [Preamble]	—	—	—	149
The president shall, from time to time, give to congress information of the state of the	2	3	—	160
New states may be admitted by congress into this.....	4	3	1	164
But no new state shall be formed or erected within the jurisdiction of another	4	3	1	164
Unreasonable searches and seizures. The people shall be secured in their persons, houses, papers, and effects against. [Amendments]	4	—	—	167
Unreasonable searches and seizures. And no warrants shall be issued but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. [Amendments]	4	—	—	167
Unusual punishments inflicted. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and. [Amendments]	8	—	—	169
Use without just compensation. Private property shall not be taken for public. [Amendments]	5	—	—	168
Useful arts, by securing for limited times to authors and inventors the exclusive right to their writings and inventions. Congress shall have power to promote the progress of science and the	1	8	8	154

V.

Vacancies happening in the representation of a state. The executive thereof shall issue writs of election to fill...	1	2	4	150
--	---	---	---	-----

	Art.	Sec.	Cl.	Page
Vacancies happening in the senate in the recess of the legislature of a state. How filled	1	3	2	150
Vacancies that happened during the recess of the senate, by granting commissions which shall expire at the end of the next session. The president shall have power to fill	2	2	3	160
Validity of the public debt incurred in suppressing insurrection against the United States, including debt for pensions and bounties, shall not be questioned. [Amendments]	14	4	—	171
Vessels bound to or from the ports of one state shall not be obliged to enter, clear, or pay duties in another state ..	1	9	6	156
Veto of a bill by the president. Proceedings of the two houses upon the	1	7	2	152
Vice-president of the United States shall be president of the senate	1	3	4	151
He shall have no vote unless the senate be equally divided	1	3	4	151
The senate shall elect a president pro tempore in the absence of the	1	3	5	151
He shall be chosen for the term of four years	2	1	1	159
The number and the manner of appointing electors for president and	2	1	2	159
In case of removal, death, resignation, or inability of the president, the powers and duties of his office shall devolve on the	2	1	5	159
Congress may provide by law for the case of the removal, death, resignation, or inability both of the president and	2	1	5	159
Vice-president. On impeachment for and conviction of treason, bribery and other high crimes and misdemeanors, shall be removed from office. The	2	4	—	161
Vice-president. The manner of choosing the. The electors shall meet in their respective states and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves. [Amendments]	12	—	—	170
The electors shall name, in distinct ballots, the person voted for as vice-president. [Amendments]	12	—	—	170
They shall make distinct lists of the persons voted for as vice-president, which lists they shall sign and certify, and send sealed to the seat of government, directed to the president of the senate. [Amendments]	12	—	—	170
The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates and the votes shall then be counted. [Amendments]	12	—	—	170
The person having the greatest number of votes shall be vice-president, if such number be a majority of the whole number of electors. [Amendments]	12	—	—	170
If no person have a majority, then from the two highest numbers on the list the senate shall choose the vice-president. [Amendments]	12	—	—	170
A quorum for this purpose shall consist of two-thirds of the whole number of senators; and a majority of the whole number shall be necessary to a choice. [Amendments]	12	—	—	170
But if the house shall make no choice of a president before the 4th of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president. [Amendments]	12	—	—	170

	Art.	Sec.	Cl.	Page
Vice-president. No person constitutionally ineligible as president shall be eligible as. [Amendments]	12	—	—	170
Violence. The United States shall guarantee to every state a republican form of government, and shall protect each state against invasion and domestic	4	4	—	164
Virginia entitled to ten representatives in the first congress..	1	2	3	150
Vote. Each senator shall have one	1	3	1	150
The vice-president, unless the senate be equally divided, shall have no	1	3	4	151
Vote requiring the concurrence of the two houses (except upon a question of adjournment) shall be presented to the president. Every order, resolution, or	1	7	3	152
Vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude. The right of citizens of the United States to. [Amendments]	15	1	—	173
Vote of two-thirds. Each house may expel a member by a... A bill vetoed by the president may be repassed in each house by a	1	5	2	151
No person shall be convicted on an impeachment except by a	1	7	2	152
Whenever both houses shall deem it necessary, congress may propose amendments to the constitution by a.....	1	3	6	151
The president may make treaties, with the advice and consent of the senate, by a	5	—	—	165
Disabilities incurred by participation in insurrection or rebellion may be relieved by congress by a. [Amendments]	2	2	2	160
[Amendments]	14	3	—	171

W.

War, grant letters of marque and reprisal, and make rules concerning captures on land and water. Congress shall have power to declare	1	8	11	155
For governing the land and naval forces. Congress shall have power to make rules and articles of	1	8	14	155
No state shall, without the consent of congress, unless actually invaded, or in such imminent danger as will not admit of delay, engage in	1	10	3	158
War against the United States, adhering to their enemies, and giving them aid and comfort. Treason shall consist only in levying	3	3	1	163
WARRANTS shall issue but upon probable cause, on oath or affirmation, describing the place to be searched, and the persons or things to be seized. No. [Amendments]..	4	—	—	167
Weights and measures. Congress shall fix the standard of...	1	8	5	154
Welfare, and to secure the blessings of liberty, etc. To promote the general. [Preamble]	—	—	—	149
Welfare. Congress shall have power to provide for the common defense and general	1	8	1	153
Witness against himself. No person shall, in a criminal case, be compelled to be a. [Amendments]	5	—	—	168
In all criminal prosecutions the accused shall be confronted with the. [Amendments]	6	—	—	168
Witnesses in his favor. In all criminal prosecutions the accused shall have compulsory process for obtaining. [Amendments]	6	—	—	168
Witnesses to the same overt act, or on confession in open court. No person shall be convicted of treason unless on the testimony of two	3	3	1	163
Writ of habeas corpus shall not be suspended, unless in case of rebellion or invasion the public safety may require it	1	9	2	156

	Art.	Sec.	Cl.	Page
Writs of election to fill vacancies in the representation of any state. The executive of the state shall issue.....	1	2	4	150
Written opinion of the principal officer in each of the executive departments on any subject relating to the duties of his office. The president may require the.....	2	2	1	160

Y.

Yeas and nays of the members of either house shall, at the desire of one-fifth of those present, be entered on the journal	1	5	3	152
The votes of both houses upon the reconsideration of a bill returned by the president with his objections shall be determined by	1	7	2	152

THE POLITICAL CODE.

CHAPTER 1.

PROVISIONS APPLICABLE TO THE WHOLE CODE. 1-13.

SECTION.

1. Signification of words.
2. Meaning of the terms "property," "circuit," "negro," etc.
3. Joint authority exercised by a majority.
4. Meaning of the word "justice."
5. Meaning of "preceding" and "following."
6. Meaning of "state."
7. Meaning of "United States."

SECTION.

8. Meaning of the words "month" and "year."
9. When undertaking without seal sufficient.
10. Laws continued in force and laws repealed.
11. Time, how computed.
12. Common law of England, adopted.
13. Repealed laws not revived.

1. (1) (1) (1) (1) (1) **Signification of words.**—Words used in this Code, in the past or present tense, include the future, as well as the past and present. Words used in the masculine gender include the feminine and neuter; the singular includes the plural, and the plural the singular; the word "person" includes a corporation as well as a natural person; "writing" includes printing on paper; "oath" includes affirmation; "signature" or "subscription" includes mark when the person cannot write, his name being written near it, and witnessed by a person who writes his own name as a witness. The terms "lunatic," "insane," or "non compos mentis," include all persons of unsound mind.

These definitions apply only to words used in this Code, or in statutes construed as part of it; not to contracts or instruments governed by the common law.—*Bickley v. Keenan*, 60 Ala. 296; *Ala. Warehouse Co. v. Lewis*, 56 Ala. 514. "Singular includes the plural and the plural the singular."—*Brunson v. Brooks*, 68 Ala. 248; *Thompson v. Boswell*, 97 Ala. 570 (12 So. 809); *Kent v. Mansel*, 101 Ala. 334 (14 So. 489); *Garner v. Toney*, 107 Ala. 352 (18 So. 161). Person includes an artificial as well as a natural person, unless thereby a statute is rendered inharmonious.—*P. & M. Bank v. Andrews*, 8 P. 404; *Selma v. Mullen*, 46 Ala. 411; *Mayor v. Rowland*, 26 Ala. 498. Writing includes printing, or part writing and part printing.—*Johnson v. State*, 69 Ala. 593. Signature includes mark: Execution of will by mark.—*Bailey v. Bailey*, 35 Ala. 687. Attestation of will by mark.—*Garrett v. Hefin*, 98 Ala. 615 (13 So. 326). Execution of note by mark.—*Wimberly v. Dallas*, 52 Ala. 196. Execution of mortgage of personalty by mark (before the statute requiring such mortgages to be in writing).—*Breene v. McCrary*, 52 Ala. 154; *Ala. Warehouse Co. v. Lewis*, 56 Ala. 514; *Bickley v. Keenan*, 60 Ala. 296. Since the statute—attestation by mark.—*Houston v. State*, 114 Ala., 15 (21 So. 813). Execution, by mark, of replevy bond approved by sheriff.—*Hester v. Ballard*, 96 Ala. 410 (11 So. 427). Generally, words used in a statute are construed in their ordinary and familiar

signification.—*Mayor v. Winter*, 29 Ala. 651; *Lehman v. Robinson*, 59 Ala. 219. Punctuation marks have no controlling influence in construing statutes.—*Danzy v. State*, 68 Ala. 296; *Cook v. State*, 110 Ala. 40 (20 So. 360). The phrase, "sworn to," and the phrases, "verified as required by law" or "duly verified," are equivalents.—*Washington Co. v. Porter*, 128 Ala. 278 (29 So. 185). The words "substance" and "detail" construed.—*State v. Williams*, 143 Ala. 501 (39 So. 276).

2. (2) (2) (2) (2) (2) **Meaning of the terms "property," "circuit," "negro," etc.**—The following words have in this Code the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "property" includes property, real and personal.

2. The words "real property" are co-extensive with lands, tenements and hereditaments.

3. The words "personal property" include money, goods, chattels, things in action and evidences of debt, deeds and conveyances.

4. The word "circuit" means judicial circuit.

5. The term "negro," within the meaning of this Code, includes mulatto. The term "mulatto," or "person of color," within the meaning of this Code, is a person of mixed blood, descended on the part of the father or mother from negro ancestors, to the fifth generation inclusive, though one ancestor of each generation may have been a white person.

"Personal property," "choses in action," defined and discussed.—*Hall & Farley v. Ala. Term. & Imp. Co.*, 143 Ala. 464 (39 So. 285). **Personal property as used in the exemption statutes includes everything subject to ownership, except realty.**—*Enzor v. Hurt*, 76 Ala. 595; *Kennedy v. Smith*, 99 Ala. 83 (11 So. 665). **Negro includes mulatto.**—*Linton v. State*, 88 Ala. 216 (7 So. 261).

"Fifth" substituted for "third" by Code Committee.

3. (3) (3) (3) (3) (3) **Joint authority exercised by a majority.**—All words giving a joint authority to three or more persons or officers, give such authority to a majority of such persons or officers, unless it is otherwise declared.

Jennings v. Jenkins, 9 Ala. 285.

4. (4) (4) (4) (4) (4) **Meaning of the word "justice."**—The word "justice," when applied to a magistrate, means "justice of the peace." "Justice of the peace," if not otherwise expressed, includes a notary public having and exercising the jurisdiction of a justice of the peace, within the precinct or ward for which he is appointed.

5. (5) (5) (5) (5) (5) **Meaning of "preceding" and "following."**—"Preceding" and "following" mean next before and next after, unless the context shows a different signification.

6. (6) (6) (6) (6) (6) **Meaning of "State."**—The word "State," when applied to the different parts of the United States, includes the District of Columbia, and the several territories of the United States.

7. (7) (7) (7) (7) (7) **Meaning of "United States."**—The words "United States" include the territories thereof, and the District of Columbia.

8. (8) (8) (8) (8) (8) **Meaning of the words "month" and "year."**—The word "month" means a calendar month, and "year" a calendar year, unless otherwise expressed.

9. (9) (9) (9) (9) (9) **When undertaking without seal sufficient.**—When by law a bond is required, an undertaking without seal is sufficient, and must be taken in all respects as if the same was a sealed instrument.

10. (10) (10) (10) (10) (10) **Laws continued in force and laws repealed.**—This Code shall not affect any existing right, remedy, or defense, nor shall it affect any prosecution now commenced, or which shall be hereafter commenced, for any offense already committed. As to all such cases the laws in force at the adoption of this Code shall continue in force. But this section does not apply to changes in forms of remedy or defense, to rules of evidence, nor to provisions authorizing amendments of process, proceedings or pleadings in civil causes. Local, private, or special statutes, and those public laws not of a general and permanent nature, and those relating to the swamp and overflowed lands, and those relating to the public debt, and those relating to institutions of learning, and those relating to the jurisdiction and practice of courts in any division, circuit, county, or other territory less than the entire state, are not repealed by this Code. But subject to the foregoing provisions, all statutes of a public, general, and permanent nature, not included in this Code, are repealed.

(Feb. 28, 1889, p. 104.) The Code is not a mere compilation of law, but is a body of laws duly enacted.—*State v. Towery*, 143 Ala. 48 (39 So. 309); *Dew v. Cunningham*, 28 Ala. 467. **General, permanent, and public statutes omitted from the Code are repealed.**—*Ulmer v. State*, 61 Ala. 208; *Hatchett v. Billingslea*, 65 Ala. 16; *Carmichael v. Hays*, 66 Ala. 543; *Sawyers v. Baker*, 72 Ala. 49; *Werborn v. Austin*, 77 Ala. 381. But such omission does not affect any existing right, remedy, or defense, etc.—*Hart v. Ross*, 64 Ala. 96; *State v. McBride*, 76 Ala. 51; *Ernst v. Hollis*, 89 Ala. 638 (8 So. 122); *Barker v. Anniston, etc., Co.*, 92 Ala. 314 (8 So. 466); *Jordan v. Smith*, 83 Ala. 299 (3 So. 703); *Robinson v. Holt*, 85 Ala. 596 (5 So. 350); *Ex parte Oehmig & Wehl*, 91 Ala. 558 (8 So. 820). **Code provisions which are inconsistent with statutes passed at session at which the Code was adopted are superseded.**—*Breden v. State*, 88 Ala. 20 (7 So. 258); *South v. State*, 86 Ala. 617 (6 So. 52); *Harrison v. Jones*, 80 Ala. 412. Instruction to commissioner to incorporate acts passed at the session at which the Code was adopted is directory merely.—*South v. State*, 86 Ala. 617 (6 So. 52). Special jury law for Montgomery county was not repealed by the Code.—*Thomas v. State*, 124 Ala. 48 (27 So. 315). **Code defined.**—*Hendon v. White*, 52 Ala. 597;

Baker v. Bell, 46 Ala. 216. Adoption of Code, repealing other statutes.—*South's Case*, 86 Ala. 617 (6 So. 52); *Ex parte Thomas*, 113 Ala. 1 (21 So. 369); *Ulmer v. State*, 61 Ala. 208. Adoption and effect of Code of 1852.—*Dew v. Cunningham*, 28 Ala. 466; *Durames v. Harrison*, 26 Ala. 326. Adoption of Revised Code.—*Ex parte Amos*, 51 Ala. 57; *Dane v. McArthur*, 57 Ala. 448; *Nicholson v. M. & M. R. R. Co.*, 49 Ala. 205.

Amended
Oct. 6,
1908, p.
395.
(r.c.c.)

11. (11) (11) (11) (14) (13) **Time, how computed.**—The time within which any act is provided by law to be done must be computed by excluding the first day and including the last; if the last day is Sunday, it must also be excluded, and the Monday following shall be counted as the last day within which the act may be done. In designating the hours of the day, the time used shall be that of the ninetieth degree of longitude west of Greenwich, otherwise known as "Standard Railroad Central Time."

If act is to be done within a given time after adjournment of court, the first day after adjournment must be excluded.—*Ragsdale v. Kinney*, 119 Ala. 459 (24 So. 443). If act is to be done within thirty days from the 29th of November, the time expires on the 29th of December; if that day be Sunday, the act cannot be performed on Monday following, but should be done on Saturday preceding the last day.—*Anniston Co. v. Cooper*, 136 Ala. 418 (34 So. 931). **Excluding first and including last day.**—*Garner v. Johnson*, 22 Ala. 494; *Owen v. Slatter*, 26 Ala. 547; *Lang v. Phillips*, 27 Ala. 311; *Field v. Gamble*, 47 Ala. 443; *City Council v. Adams*, 51 Ala. 449; *Dickson v. Frisbee*, 52 Ala. 165; *Madden v. Floyd*, 69 Ala. 221; *Chapman v. Ewing*, 78 Ala. 403; *Loosse v. Vogel*, 80 Ala. 308; *Thrower v. Brandon*, 89 Ala. 406 (7 So. 442); *L. & N. R. Co. v. Watson*, 90 Ala. 68 (8 So. 249). **If last day of limitation is Sunday, action brought on following Monday barred.**—*Allen v. Elliot*, 67 Ala. 433. **When fractions of a day considered to determine priority of liens.**—*German Security Bank v. Campbell*, 99 Ala. 249 (12 So. 436); *Lang v. Philips*, 27 Ala. 311. "Until January 5," excludes that day.—*Richardson v. State*, 142 Ala. 12 (39 So. 12). See *Mayfield's Digest*, vol. 4, p. 945.

12. **Common law of England, adopted.**—The common law of England, so far as it is not inconsistent with the Constitution, laws and institutions of this state, shall, together with such institutions and laws, be the rule of decisions, and shall continue in force, except as from time to time it may be altered or repealed by the legislature.

13. **Repealed laws not revived.**—All laws and all statutes or parts of statutes which are repealed or abrogated by this Code, or are repugnant to any law repealed by this Code and which have not been re-enacted or consolidated, shall continue to be so repealed or abrogated.

CROSS REFERENCES.

ABANDONMENT (Civil Code)	2475, 3793, 3800, 4190, 4192, 4494
ABANDONMENT OF FAMILY (Criminal Code)	7843
ABATEMENT (Civil Code)	2495-2501, 2960, 2964, 2965, 5330-5333
" (Criminal Code)	7567-7574
ABDUCTION AND KIDNAPPING (Criminal Code)	6210-6214
ABOLISHED COURTS (Civil Code)	2847
ABORTION (Criminal Code)	6215
ABSCONDING (Civil Code)	2925, 2938, 4190
ABSCONDING FELONS (Criminal Code)	6939-6953
ABSENCE (Criminal Code)	6842
ABSENCE FROM STATE (Civil Code).....	4844
ABSTRACTS (Criminal Code)	6216
ABSTRACT OF TITLE (Civil Code)	3841
ABUSIVE, INSULTING, OBSCENE LANGUAGE (Criminal Code).....	6217
ABUSIVE OR THREATENING LETTERS (Criminal Code)	6218
ABUTTING OWNERS TAX FOR BETTERMENT (Political Code) ..	1359-1420
ACCEPTANCE (Civil Code)	5081-5118, 5166
ACCESSORIES (Criminal Code)	6219, 6220
ACCOMMODATION (Civil Code)	3189
ACCOMPLICES (Criminal Code)	6219, 6220, 7897
ACCORD AND SATISFACTION (Civil Code)	3973, 3974
ACCOUNTS (Civil Code)	612, 546- 549
ACCUMULATION (Civil Code)	3410
ACKNOWLEDGMENT (Civil Code)	3358, 3362, 4160
ACQUITTANCE (Civil Code)	3211
ACTION ON THE CASE (Civil Code)	5329
ACTIONS AGAINST MUNICIPALITIES (Political Code)	1273-1275
ACTIONS AND PARTIES (Civil Code)	2440-2506
ACTIONS, LIMITATIONS OF (Civil Code)	4830, 4831
ACTS, JOURNALS AND JOINT RESOLUTIONS (Civil Code).....	1663-1667
ACTS OF CONGRESS (Political Code)	568, 594
" (Civil Code)	3988
ADJOINING LAND-OWNERS (Civil Code)	4243-4250
ADJUTANT-GENERAL (Civil Code)	929- 931
AD LITEM GUARDIANS (Civil Code)	4482-4484
ADMINISTRATION OF ESTATES (Civil Code)	2507-2829
AD QUOD DAMNUM (Civil Code)	3860-3909
ADRIFT (Civil Code)	5844-5857
ADULTERATING CANDIES (Criminal Code)	7081
ADULTERY (Civil Code)	3793, 3799
ADULTERY AND FORNICATION (Criminal Code)	6221, 7421
ADULTERATING FOOD (Criminal Code)	7078
ADULTERATING LIQUORS (Criminal Code)	7080
ADVANCEMENTS (Civil Code)	3767-3777
ADVANCES BY LANDLORD TO TENANT (Civil Code)	4734-4746
ADVERSE POSSESSION (Civil Code)	2830, 3846-3850
ADVERTISEMENTS (Civil Code)	5181-5192
AFIDAVITS (Civil Code)	4631
AFFRAYS (Criminal Code)	6222, 6308

Qualifications, Duties, and Salaries of the Commissioner and His Clerks.

CHAPTER 2.

AGRICULTURE AND INDUSTRIES. 14-79.

- ARTICLE 1. QUALIFICATION, DUTIES, AND SALARY OF THE COMMISSIONER AND HIS CLERKS. 14-23.
 ARTICLE 2. PROVISIONS REGULATING THE SALE OF FERTILIZERS. 24-48.
 ARTICLE 3. COTTONSEED MEAL; REGULATION OF. 49, 50.
 ARTICLE 4. FUNDS OF THE DEPARTMENT OF AGRICULTURE AND INDUSTRIES. 51, 52.
 ARTICLE 5. AGRICULTURAL EXPERIMENT STATIONS AND SCHOOLS. 53-69.
 ARTICLE 6. FARMERS' INSTITUTES AND AGRICULTURAL FAIRS. 70-72.
 ARTICLE 7. APPROPRIATION FOR USE OF DEPARTMENT OF AGRICULTURE AND INDUSTRIES. 73-75.
 ARTICLE 8. SOIL SURVEYS AND ANALYSIS. 76-79.

ARTICLE 1.

QUALIFICATIONS, DUTIES, AND SALARIES OF THE COMMISSIONER AND HIS CLERKS. 14-23.

SECTION.

14. Department of agriculture and industries.
 15. Term of office of commissioner; vacancy filled by governor.
 16. Oath of office; bond.
 17. Salary.
 18. Location of office.

SECTION.

19. Clerks and stenographer; oaths of office; bonds; term of office.
 20. Duties of clerks.
 21. Compensation of clerks.
 22. Duties of commissioner.
 23. State geologist to furnish information to the commissioner.

Constitu-
tion of
1901, § 112.

14. (368) (129) **Department of agriculture and industries.**—A department of agriculture and industries is created and established under the management and control of a public officer to be known as the "Commissioner of Agriculture and Industries" who must be a practical and experienced agriculturist.

(Feb. 17, 1885, p. 168, § 2.) Statute "clearly constitutional."—Steiner v. Ray, 84 Ala. 93 (4 So. 172).

15. (369) (130) **Term of office of commissioner; vacancy filled by the governor.**—The commissioner of agriculture and industries holds office for the term of four years from the first Monday after the second Tuesday in January next after his election, and until his successor is elected and qualified. Vacancies are filled by the governor for the unexpired term, and until the election and qualification of a successor.

(Feb. 18, 1891, p. 1213; Feb. 21, 1893, p. 1091, § 2; Feb. 17, 1885, p. 168, § 2.) Lane v. Kolb, 92 Ala. 636 (9 So. 873).

16. (370) (131) **Oath of office; bond.**—The commissioner, before entering on the duties of the office, must take and subscribe the oath of office prescribed by the Constitution; and

Qualifications, Duties, and Salaries of the Commissioner and His Clerks.

must enter into bond, payable to the State of Alabama, with good and sufficient sureties, in the penalty of five thousand dollars, with condition for the faithful performance of all the duties which are, or may be, by law required of him. The bond must be approved by the governor, and, with the oath of office, filed in the office of the auditor.

(Feb. 17, 1885, p. 168, § 2.)

17. (371) (132) **Salary.**—The salary of the Commissioner is three thousand dollars annually, payable monthly.

As amended, Feb. 22, 1907, p. 68, § 1.

(Feb. 17, 1885, p. 168, § 2.)

18. (372) (133) **Location of office.**—The Commissioner must keep his office in the State Capitol.

19. (373) (134) **Clerks and stenographer; oaths of office; bonds; term of office.**—The Commissioner must appoint two clerks, one of whom shall be known as the chief clerk, the other as assistant clerk, and one stenographer; each of them must take an oath to discharge faithfully all the duties which are, or may be, required of him by law. The chief clerk must give bond, with at least two good and sufficient sureties, to be approved by the commissioner and the governor, in the penalty of five thousand dollars, payable to the State of Alabama, with condition for the faithful performance of all the duties which are, or may be, required of him by law. The assistant clerk must give bond, with at least two good and sufficient sureties, to be approved by the commissioner and the governor, in the penalty of three thousand dollars, payable to the State of Alabama, with condition for the faithful performance of all the duties which are, or may be, required of him by law. The official oaths and bonds of the chief clerk and assistant clerk must be filed in the office of the auditor. The chief clerk and assistant clerk hold office during the term of the commissioner by whom they are appointed, and until the appointment and qualification of their successors, unless sooner removed.

As amended, Feb. 22, 1907, p. 68, § 8.

(Feb. 17, 1885, p. 168, §§ 2, 3.)

20. (374) (135) **Duties of clerks.**—The clerks must discharge such duties as may be prescribed by the commissioner. It is the duty of the chief clerk to take charge of the "fertilizer tags" of the department; to furnish the same to dealers, and to make such reports as may be required by the commissioner; under the supervision of the commissioner, to make sale of the tags to licensees; to keep a correct account of all tags sold by the department, showing to whom and when sold, and, as far as practicable, the fertilizer or fertilizers for

Qualifications, Duties, and Salaries of the Commissioner and His Clerks.

which they are intended; and to keep an account of all licenses issued by the commissioner, to whom and when issued, and of the fees received therefor; and, under the direction of the commissioner, to render monthly accounts to the auditor of all moneys received by the department, and of all its expenditures; and to pay into the State treasury such moneys as are properly payable thereto, on the certificate of the auditor.

(Feb. 17, 1885, p. 168, §§ 3, 19.)

21. (375) (136) Compensation of clerks.—The annual salary of the chief clerk is eighteen hundred dollars, and of the assistant clerk fifteen hundred dollars, and of the stenographer seven hundred and fifty dollars, payable monthly, on the certificate of the commissioner. Expenses necessarily incurred by them in traveling on the business of the department, under the direction of the commissioner, must be paid from, and charged against, the department fund.

As amended, Feb. 22, 1907, p. 63, § 8; Aug. 9, 1907, p. 774, § 1.

(Feb. 17, 1885, p. 168, § 3.)

22. (376) (137) Duties of commissioner.—The following are the duties of the commissioner:

1. He shall encourage the proper development of agriculture, horticulture, and kindred industries.

2. He shall encourage the organization of neighborhood and county agricultural clubs and associations, and out of these the organization of a State agricultural association.

3. He shall collect and publish statistics, and such other information in regard to the industries of this state, and of other states, as may be of benefit in developing the agricultural resources of the state. To this end, he shall put himself in communication, and shall co-operate with the departments of agriculture in other states, and with the commissioner of agriculture of the United States, and shall provide for the proper and careful distribution of all seeds, plants, documents and information coming into his possession on account of the department, that may be of interest and benefit to the people of the state; and he may purchase seeds for distribution.

4. He shall cause to be investigated the diseases of grain, fruits and other crops growing in this state, and also remedies for such diseases, and also the habits and propagation of the various insects that are injurious to the crops of the state, and the proper mode of their destruction.

5. He shall investigate the subject of grasses, and report upon their value, and the cultivation of the varieties best adapted to the different sections of the state, and the mode of preserving the same.

6. He shall inquire into all matters connected with the dairy

Qualifications, Duties, and Salaries of the Commissioner and His Clerks.

that he may deem of interest to the people of the state, and in this connection the raising of stock and poultry, the obtaining of such as are of the most value, and the breeding and propagation of the same; and he shall encourage the raising of fish and the culture of bees.

7. He shall give attention to the subject of fencing, and the reduction of the cost thereof; and shall investigate the subject of sub-soil drainage, and the best modes of effecting it; and of irrigation, and what portion of the state can be most benefited thereby.

8. He shall investigate and report upon the culture of wool, and the utility and profits of sheep-raising; also the culture of silk, and its manufacture and preparation for market.

9. He shall cause a proper collection of agricultural statistics to be made annually, and to this end shall furnish blank forms to the tax-assessor, or some other county official of each county; and it is made the special duty of the tax-assessor, or other officer to whom such blanks are furnished, to collect such information as may be desired, and report the same without delay to the Commissioner.

10. He shall appoint county correspondents, who will report to him from time to time, as may be desired.

11. He shall prepare and keep in his office books of registry, wherein any person may have entered, upon payment of a registry fee of one dollar for each tract or lot, any real estate for sale, with the terms of sale; and shall file in his office any plats, or descriptive papers desired; and such books, plats and papers shall be open to inspection, free of charge. He shall also obtain from the auditor and keep in his office, the registry of the lands which may be held by the state for sale for non-payment of taxes, or for other cause, with their value, and the nature and characteristics of the soil.

12. He shall collect specimens of wood, suitable for manufacturing and other purposes, and specimens of agricultural, mineral, phosphate, and marl deposits of the state, and cause correct analyses of such as may be deemed expedient to be made and recorded in a substantial book to be kept for this purpose.

13. He shall, from time to time, prepare a convenient handbook, with the necessary illustrative maps, which shall contain all necessary information as to the mines, minerals, forests, soils, and other products; climate, water, and water-powers; fisheries, mountains, streams, industries, and all such statistics as are best adapted to give proper information of the attractions and advantages which the state affords to immigrants, and shall make illustrative expositions thereof, whenever practicable, at international and state expositions.

Qualifications, Duties, and Salaries of the Commissioner and His Clerks.

14. He shall aid immigration by publishing each year such information as to the agricultural, mineral, and other industries and resources of the state, as shall be of interest to immigrants, or others seeking a change of home, or seeking investments.

15. He shall, at the opening of each season, issue and distribute circulars, setting forth the brands of fertilizers sold or exchanged, or offered for sale or exchange, in the state, their analysis as claimed by the manufacturer or dealer in them, and, so far as known, their agricultural and commercial value.

16. He shall issue a license to such persons as propose to sell or exchange fertilizers.

17. He shall obtain samples of every brand of fertilizers sold or exchanged, or offered for sale or exchange, in this state, for each season in which such fertilizers are offered for sale, and cause such samples to be analyzed by the state chemist; and he shall make publication of such analysis not later than the first day of August of each year.

18. He shall make and publish such rules and regulations as he may deem necessary to carry into effect the provisions of this chapter touching the sale or exchange of fertilizers.

19. He shall make a report to the governor, quarterly, of all the moneys received and disbursed by the department; and, on the expiration of the fiscal year, must make a report of all such receipts and disbursements. Such annual report must include a list of all licenses issued during the year, with date of issuance, number of each license, name and address of each licensee, amount received for each license, and the total amount received for licenses; also, a statement showing the date of each sale of tags during the year, the name and address of each purchaser, the number of tags purchased, the amount paid therefor, and the total amount received from the sale of tags.

19½. He shall cause a sample of any fruit trees alleged to be diseased with a disease which is likely to permanently injure or destroy orchards or fruit crops in any section of the state adjacent to such trees, to be sent by the owner or custodian of such trees to him, or to one of the agricultural experiment stations located in this state, and shall then cause the same to be thoroughly examined and analyzed at one of such stations and a report furnished to him thereof in writing; and if it appear from such report that such trees are infected with any blight or disease calculated to injure or destroy orchards or fruit crops in any section of the state adjacent thereto, he shall cause the owner or custodian of such orchards or trees so examined or reported, to destroy or burn any and

Qualifications, Duties, and Salaries of the Commissioner and His Clerks.

all trees so infected; provided, that the owner or custodian of such trees shall be allowed ten days after notice to show said commissioner, if he can, that such blight or disease does not in fact exist, or that it is not dangerous to the orchards or fruit crops in the adjacent sections of the state.

20. He shall, from time to time, inquire into and examine into the sale or delivery within this state of any article, product or compound made wholly or partly out of fat, oil, oleaginous substance, or compound thereof, not produced directly at the time of manufacture from unadulterated milk or cream from the same, which shall be in imitation of yellow butter produced from pure, unadulterated milk, or cream from the same; and for the purpose of making said investigation, he shall be authorized to summon and examine witnesses and administer oaths to them, and whenever he has cause to believe from such investigation that an offense has been committed against the laws of this state, it shall be his duty to report the same, together with the evidence in the case, to the solicitor of the proper circuit or county to be laid before the grand jury. The expenses incurred under the provisions of this subdivision, duly certified to, and verified by the affidavit of the commissioner of agriculture and industries, and approved by the governor, shall be paid from the funds of the department of agriculture and industries derived from the sale of tags.

(Feb. 17, 1885, p. 168, §§ 4, 6, 13, 17, 22, 27; Feb. 1, 1891, p. 442; Feb. 18, 1897, p. 1307).

23. (377) (138) **State geologist to furnish information to the commissioner.**—It is the duty of the state geologist, on application, to furnish the commissioner all the information he may have, with reference to the mineral, agricultural, and other natural resources of the state, together with the analysis of soils, ores, marls, minerals, and mineral waters, and with maps, charts, drawings and specimens, illustrative of the geological, agricultural, and mineral features of the state.

(Feb. 17, 1885, p. 168, § 5.

AGRICULTURE AND INDUSTRIES.
Provisions Regulating the Sale of Fertilizers.

ARTICLE 2.

PROVISIONS REGULATING THE SALE OF FERTILIZERS. 24-48.

SECTION.

24. To regulate registration, branding, sale, tagging and analysis of fertilizers.
25. License, issue and expiration of.
26. Proof as to license.
27. Commissioner must make requisition upon auditor for tags.
28. Tags supplied by auditor and account kept against commissioner.
29. Surplus tags to be destroyed at end of season and credit therefor given.
30. Commissioner and his sureties liable for tags not accounted for.
31. When auditor to certify account to attorney-general for suit.
32. Issue and limit of tags.
33. Including tag tax in price of fertilizer vitiates sale.
34. Unlawful to sell fertilizers not registered.

SECTION.

35. Parol evidence competent.
36. Brand as to ingredients.
37. Penalty when commercial value not sustained.
38. Elements which constitute "high grade" fertilizers.
39. Uniformity in all brands.
40. Material forbidden to be sold.
41. Additional rules by commissioner of agriculture and industries.
42. Sales of acid phosphate; when not restricted.
43. Samples; how procured.
44. Requirements in testing character of fertilizer.
45. Fertilizer; what not included in term.
46. Chemist of department.
47. Analysis of fertilizers by Alabama Polytechnic Institute.
48. Copy of official analysis; evidence.

Amended,
Aug. 14,
1907, p.
744, § 1.

24. (378) (139) To regulate the registration, branding, sale, tagging, and analysis of fertilizers.—All manufacturers, jobbers, and manipulators of commercial fertilizers and fertilizer materials to be used in the manufacture of the same, who may desire to sell or offer for sale in the state, such fertilizers and fertilizer materials, shall first file with the commissioner of agriculture and industries, on or before December 1st of each fiscal year, upon forms furnished by the said commissioner, the name of each brand of fertilizer, acid phosphate fertilizer materials or chemicals which they may desire to sell in said state, either by themselves or their agents, together with the name and address of the manufacturer or manipulator, also the guaranteed analysis thereof, stating the sources from which the phosphoric acid, nitrogen, and potash are derived; provided, any person, firm or corporation, organized after December 1st, may register within one month after being organized. It shall be the duty of every such person, firm or corporation to notify the commissioner of agriculture and industries, in writing, by mail or otherwise, as may be most convenient, on day of shipment or twenty-four hours thereafter, of every such shipment when exceeding five tons of fertilizer or fertilizer materials; such notice to

Provisions Regulating the Sale of Fertilizers.

state the brand name, number of sacks, the weight of each sack, and to whom shipped and addressed.

(Feb. 17, 1885, p. 168, §§ 27, 28.) This article is not in violation of Interstate Commerce.—*Brown Co. v. Adair*, 104 Ala. 652 (16 So. 439). Paying taxes under this section does not exempt from payment of other license taxes.—*Troy Co. v. State*, 134 Ala. 333 (32 So. 618). Sales of fertilizer, when void.—*Brown v. Raisin Fertilizer Co.*, 124 Ala. 221 (26 So. 891). Burden of proof of sale on seller.—*Brown v. Raisin Co.*, 124 Ala. 221 (26 So. 891). Sale by agent of licensee valid.—*Furman Co. v. Long*, 113 Ala. 203 (21 So. 339). License to principal admissible in evidence.—*Furman Co. v. Long*, 113 Ala. 203 (21 So. 339). Proof of issuance of license; burden of proof; secondary evidence.—*Edisto Co. v. Standford*, 112 Ala. 493 (20 So. 613). Contract not affected by nonresidence of seller.—*Merriman & Co. v. Knox*, 99 Ala. 93 (11 So. 741). Failure to comply with statute defense to note. *Ib.* See citations to § 32.

25. (379) (140) License; issue and expiration of.—Every person, firm or corporation or association of persons shall, before offering any fertilizer or acid phosphate or fertilizer materials for sale or exchange in the State of Alabama, first procure a license from the commissioner of agriculture and industries, authorizing such person, firm or corporation or association of persons to sell or exchange or deal therein. Such license shall be issued by said commissioner on the payment of a fee of one dollar, and shall expire on the 30th day of September of each year.

Amended,
Aug. 14,
1907, p.
744, § 2.

(Feb. 17, 1885, p. 168, § 27.)

26. (380) Proof as to license.—The printed report of the commissioner, or a certified copy of the record in his office, showing the issuance of the license to sell or exchange fertilizers or fertilizer materials, to whom and when issued, is presumptive evidence of the fact that said license was issued to such person at such date. But this provision does not preclude the introduction of the license in evidence.

As amend-
ed, Mar.
3, 1908, p.
78, § 3.

27. (381) Commissioner must make requisition upon auditor for tags.—The commissioner must, prior to the beginning of each season, and at such other times as may be necessary, make written requisition upon the auditor for the estimated number of tags required to supply the demand during the ensuing season.

(Feb. 23, 1893, p. 865.)

28. (382) Tags supplied by auditor and account kept against commissioner.—Upon the receipt of such requisition the auditor must have printed the required number of tags of suitable material, with proper fastenings for attaching the same to packages, bags or barrels of fertilizers; and there shall be printed thereon the word "Guaranteed," with the year or season in which the tags are to be used, and a facsimile signature of the auditor and the commissioner, and

As amend-
ed, Feb.
26, 1903,
p. 65, § 1.

Provisions Regulating the Sale of Fertilizers.

there shall also be printed thereon the words "Alabama Tag Tax, 3 cents." The auditor, as soon as practicable, must deliver such tags to the commissioner, at the capitol, taking his receipt therefor; and the auditor shall keep a true and correct account with the commissioner, charging him with all the tags furnished, at the price of three cents each, and crediting him with all legally accounted for at the same price. The commissioner must report to the auditor at the end of each month the number of tags sold during the month, and credit therefor must be given as above provided.

(Feb. 17, 1885, p. 168, sec. 9; Feb. 23, 1893, p. 865.)

As amend-
ed, Feb.
26, 1903,
p. 65, § 2

29. (383) Surplus tags to be destroyed at end of season and credit therefor given.—All tags remaining in the hands of the commissioner at the end of the year, or season, must be destroyed in the presence of the treasury, secretary of state and attorney general; and the certificate of these officers showing the number of tags so destroyed and the year and season for which they were intended entitles the commissioner to credit therefor on his account with the auditor at the rate of three cents for each tag so destroyed.

(Feb. 23, 1893, p. 865.)

Ib., § 3.

30. (384) Commissioner and his sureties liable for tags not accounted for.—The commissioner and sureties on his official bond are liable to the state for all such tags not legally accounted for at the rate of three cents each.

31. (385) When auditor to certify account to attorney-general for suit.—If, for more than sixty days after the expiration of the year or season, the commissioner shall fail to account for all the tags so furnished him, the auditor must certify the account therefor to the attorney-general; and unless all such tags shall be legally accounted for within thirty days thereafter, the attorney-general must proceed by suit to enforce the liability against the commissioner and the sureties on his bond.

Amended,
Mar. 3,
1908, p. 78,
§ 7.

32. (386) (141) Issue and limit of tags.—All manufacturers and manipulators, or agents representing them, who have registered their brands in compliance with this article, shall file with the commissioner of agriculture and industries a request for tags, accompanied with the legal price of same, stating that said tags are to be used upon brands of fertilizers and fertilizer materials registered in accordance with this article, whereupon the said commissioner shall issue tags to the persons applying, who shall attach one tag for each two hundred pounds in each bag, barrel, or package thereof. Any tags left in the possession of the manufacturer shall not be

Provisions Regulating the Sale of Fertilizers.

used for another season, but shall be redeemed with new tags within sixty days after the close of the department's fiscal year, which fiscal year shall be comprised between the dates of October 1 and September 30, inclusive; provided, no such tags shall be redeemed unless returned to the commissioner of agriculture and industries in unbroken and original sealed packages. The color of said tags must be changed each fiscal year, and there shall not be printed upon said tags any brand, name, or analysis. Any sale, or exchange, of fertilizers not so tagged is void.

(Feb. 4, 1895, p. 368, § 1; Feb. 17, 1885, p. 168, §§ 9, 10.) **A sale of commercial fertilizers, made in violation of statutory requirements, is void, and no recovery can be had for the price.**—Campbell v. Segars, 81 Ala. 259 (1 So. 714); Steiner v. Ray, 84 Ala. 93 (4 So. 172); Clark's Cove Guano Co. v. Dowling, 85 Ala. 142 (4 So. 604); Merriman v. Knox, 99 Ala. 93 (11 So. 741); Brown v. Adair, 104 Ala. 652 (16 So. 439); Kirby v. Huntsville Fertilizer & Milling Co., 105 Ala. 529 (17 So., 38). **When contract of sale made in this state.**—Johnson v. Hanover Nat. Bk., 88 Ala., 271 (6 So. 909); Hanover Nat. Bk. v. Johnson, 90 Ala., 549 (8 So. 42); Brown v. Adair, 104 Ala. 652 (16 So. 439). **Residence of seller and place of manufacture of goods are immaterial when delivery made in this state.**—Merriman v. Knox, 99 Ala. 93 (11 So. 741); Brown v. Adair, 104 Ala. 652 (16 So. 439). **Tags must be attached at the time of the sale; if previously attached, and lost before the sale, others must be supplied, else the sale is void.**—Clark's Cove Guano Co. v. Dowling, 85 Ala. 142 (4 So. 604); Kirby v. Huntsville F. & M. Co., 105 Ala. 529 (17 So. 38). **Action on commercial paper given for the price of fertilizers sold without compliance with statutory requirements cannot be maintained, even by a bona fide purchaser before maturity.**—Hanover Nat. Bank v. Johnson, 90 Ala. 549 (8 So. 42). **When want of license pleaded, burden of proof on plaintiff.**—Edisto Phosphate Co. v. Sandford, 112 Ala. 493 (20 So. 613).

33. (387) Including tag tax in price of fertilizer vitiates sale.—Whenever any manufacturer, merchant or other person selling fertilizers shall, directly or indirectly, include such tag tax in the price of the fertilizer sold, such sale is void.

34. (388) Unlawful to sell fertilizers not registered.—It shall not be lawful for any manufacturer or company, either by themselves or their agents, to sell or offer for sale in this state any fertilizers or fertilizer materials that have not been registered with the commissioner of agriculture and industries as required by this article. The fact that the purchaser waives the tagging and analysis thereof shall be no protection to said party selling or offering the same for sale. In contracts for the sale of fertilizers in which an excessive or fictitious price is put upon such fertilizers with the stipulation that if such fertilizers are paid for on or before a certain date they may be paid for in a smaller sum than such excessive or fictitious price, or in cotton or other produce at an excessive or fictitious price, the difference between the excessive or fictitious price charged for the fertilizers and their real market value shall be held a penalty; in all suits to enforce such con-

Amended,
Mar. 3,
1903, p.
78, § 8;
Aug. 14,
1907, p.
744, § 8.

Provisions Regulating the Sale of Fertilizers.

tracts only the real market value of such fertilizers with the interest thereon shall be recoverable.

(Dec. 8, 1886, p. 50, § 1.)

AUG. 14.
1907, p.
744, § 8.

35. (389) Parol evidence competent.—Parol evidence is competent to show such market value, the situation of the parties and the consideration of such contracts, as in cases of usury, notwithstanding any writing in the premises.

(Dec. 8, 1886, p. 50, § 2.)

As amend-
ed, Aug.
14, 1907,
p. 744, § 4.

36. (390) (142) Brand as to ingredients.—All persons, companies, manufacturers, dealers or agents, before selling or offering for sale in this state, any commercial fertilizer or fertilizer materials, shall brand or attach to each bag, barrel or package, the brand name of the fertilizer, the weight of the package, the name and address of the manufacturer, and the guaranteed analysis of the fertilizer, giving the valuable constituents of the fertilizer in minimum percentages only. These items only shall be branded or printed on the packages in the following order: 1. Weight of each package in pounds. 2. Brand name, and, or, trade mark. 3. Guaranteed analysis. 4. Available phosphoric acid per cent. 5. Nitrogen per cent. 6. Potash per cent. 7. Name and address of manufacturer. 8. Total number of pounds of available plant food. 9. In bone meal, tankage or other products, where the phosphoric acid is not available to laboratory methods, but becomes available on the decomposition of the products of the soil, the phosphoric acid shall be claimed as total phosphoric acid unless it be desired to claim available phosphoric acid also, in which latter case, the guarantee must take the form above set forth. In the case of bone meal and tankage, manufacturers may brand on the bag information showing the fineness of the product; provided it takes a form approved by the commissioner of agriculture and industries. The term "available phosphoric acid" as used in this article shall be held to consist of the sum of the "water soluble" and "citrate soluble" phosphoric acids.

(Feb. 17, 1885, p. 168, § 7.) Incorrect statement of place of manufacture.—*Furman Co. v. Long*, 117 Ala. 581 (23 So. 527). See citations to § 32.

Mar. 3,
1903, p.
78, § 5: as
amend-
ed, Mar.
4, 1907, p.
187, § 1:
Aug. 14,
1907, p.
744, § 5.

37. Penalty when commercial value not sustained.—If any commercial fertilizer or fertilizer material sold in this state shall prove deficient in any of its ingredients, as guaranteed or branded on the sacks, bags or packages containing the same, and if, by reason of such deficiency, the commercial value of such fertilizers shall fall more than five per cent. below the guaranteed total commercial value of such fertilizers, or fertilizer material, then any note or obligation given

Provisions Regulating the Sale of Fertilizers.

in payment therefor shall be collectible by law only for one-half the amount of such note or obligation.

38. Elements which constitute "high grade" fertilizers.— No complete fertilizer, acid phosphate with potash, acid potash with nitrogen, or plain acid phosphate, shall be sold in this state which contains less than fourteen per cent plant food, namely, available phosphoric acid, nitrogen calculated as ammonia and potash, either singly or in combination; provided, that no complete fertilizer shall be sold in this state which contains less than one and sixty-five hundredths per cent of nitrogen equivalent to two per cent of ammonia.

Mar. 3,
1903, p.
78, § 6; as
amended,
Aug. 14,
1907, p.
744, § 6.

39. Uniformity in all brands.—The guaranteed analysis of each and every brand of fertilizer and fertilizer material must without exception remain uniform throughout the fiscal year for which it is registered, and in no case, even in subsequent registrations, shall the grade be lowered, although the portion of available constituents may be changed so that the decrease of one constituent may be compensated for in value by the increase of the other or others. Such proposed change must first receive the approval of the commissioner of agriculture and industries. The brand name or trade mark registered by one manufacturer shall not be entitled to registration by another, and the manufacturer having first registered and used the said brand, name, and, or, trade mark, shall be entitled to it, even should said brand, name, and, or, trade mark, not be offered for current registration at the time. All such brand names which have heretofore been registered shall be re-registered annually under the provisions of this article on or before December 1st of each year, and for the privileges of such registration the person, first, or corporation, or association of persons, so offering the same shall pay to the commissioner of agriculture and industries at the time of offering the same for registration, the sum of five dollars for each brand name registered, and no brand name shall be registered hereafter without the payment of said sum. Such names as have been once registered under the provisions of this article shall not hereafter be required to be registered again, in said year, unless the ingredients of the fertilizer or fertilizer materials to and upon which such name is used are changed; and in the event of such change the fee herein required shall be again paid by the person, firm, or corporation offering the said brand name for registration. Nothing in this section shall be construed so as to debar the right of any manufacturer to establish his ownership in, and prior right of registration of, any brand name, and, or, trade mark, whether said brand name, and, or, trade mark, had been previously

ib., § 9.

Provisions Regulating the Sale of Fertilizers.

registered or not. Any brand name which has been registered may be changed or cancelled by writing, duly signed and acknowledged or witnessed, and filed in the office of the commissioner of agriculture and industries.

Mar. 3,
1908, p.
78. § 10.

40. Material forbidden to be sold.—No person, company, dealer, or agent, shall sell, expose, or offer for sale, in this state, any pulverized leather, raw, steamed, roasted or in any other form, either as a fertilizer or as a fertilizer material, without having first made full and explicit statement of the fact and registration with the commissioner of agriculture and industries, and furnishing satisfactory proof that the nitrogen is sufficiently available and valuable for the purpose for which it is sold.

Ib., § 11.

41. Additional rules by commissioner of agriculture and industries.—The commissioner of agriculture and industries shall establish such rules and regulations in regard to the inspection, analysis and sale of fertilizer and fertilizer material as shall not be inconsistent with the provisions of this article, as, in his judgment, will best carry out the requirements thereof.

Ib., § 12.

42. Sales of acid phosphate; when not restricted.—Nothing in this article shall be construed to restrict or avoid sales of acid phosphate or any other fertilizer material to each other by importers, manufacturers, or manipulators who mix fertilizers or fertilizer material for sale, or as preventing the free and unrestricted shipments of materials to manufacturers or manipulators, who have registered their brands as required by the provisions of this article.

As amend-
ed Aug.
14, 1907,
p. 744.
§ 18.

43. (391) (143) Samples; how procured.—The commissioner of agriculture and industries shall be required to secure samples of each and every brand of fertilizers or fertilizer material offered for sale or exchange in the State of Alabama, and for this purpose he may employ for not exceeding three months in each year, upon the approval of the governor, as many fertilizers samplers as he may deem necessary, not to exceed one to each congressional district, and said samplers shall secure samples of each and every brand of fertilizers or fertilizer material offered for sale or exchange in the State of Alabama. Samplers to be paid out of any moneys in treasury to the credit of the department of agriculture and industries, their salaries and expenses not to exceed two hundred dollars per month, on requisition of the commissioner of agriculture and industries. Said samples to be procured in the following manner: Samples drawn with such an instrument as shall secure the core from the entire length of the package from lots less than ten packages from each

Provisions Regulating the Sale of Fertilizers.

sack, barrel or package, and from lots of ten packages or more, samples to be taken from not less than ten packages, and after thoroughly mixing the samples so drawn, he shall by the method known as quartering, draw from such thoroughly mixed samples, two sub-samples, and with them fill two sample bottles of not less than eight ounce capacity each, and shall plainly mark on each of said bottles the number of said sample, said number to correspond with the record kept by the commissioner in his office, giving the name of the fertilizer or fertilizer material, the name of the manufacturer, the guaranteed analysis, place where the sample was secured, the name of the party from whom the sample was taken, and the date of the sampling. One of said samples shall be retained by said commissioner of agriculture and industries in his office, the other of said samples, marked only by said number, shall be sent to the state chemist, who shall make a complete analysis of the same, setting forth the percentages of water, soluble phosphoric acid, citrate soluble, phosphoric acid (or the sum together of these two components, constituting the available phosphoric acid, as may be required by the commissioner of agriculture and industries), available phosphoric acid, acid soluble (or insoluble) phosphoric acid, nitrogen and potash, or such of these constituents as may be present, and certify under the same number as marked, said analysis to said commissioner, which analysis shall be recorded as official and entered opposite the brand of fertilizer or fertilizer material, which the number represents; such official analysis of such fertilizer or fertilizer material under the seal of the commissioner of agriculture and industries shall be admissible as evidence in any of the courts of this state on trial of any issue involving the merits of such fertilizer or fertilizer material. .

(Feb. 17, 1885, p. 168, § 12; Feb. 27, 1889, p. 773.) As to when this section applies to sales of fertilizer, see *Phillips v. Americus Co.*, 110 Ala. 521 (18 So. 104).

44. Requirements in testing character of fertilizer.—Any purchaser of fertilizer or fertilizer material, within ten days after the receipt thereof, may take, in the presence of a notary public or justice of the peace, or two disinterested witnesses, a sample of fertilizer in the following manner: In lots of ten sacks or less, a teacupful, which shall be taken from the top and bottom of each alternate package; and in lots of from ten to fifty sacks, from at least ten packages (and from lots of more than fifty packages from at least ten packages). Said samples so taken shall be thoroughly mixed upon some surface so as to not mix dirt or other foreign material with fer-

Mar. 3,
1903, p. 78,
§ 14; as
amended,
Aug. 14,
1907, p.
744, § 14.

Provisions Regulating the Sale of Fertilizers.

tilizer; then from different parts of such thoroughly mixed piles two bottles, jars or air tight receptacles of at least eight ounce capacity each shall be filled, and such receptacles shall then be delivered to the notary public, the justice of the peace, or witnesses, and by them sealed, and the name of the purchaser and notary public or justice of the peace or witnesses shall be endorsed on the labels, one of which shall be pasted on each of said receptacles, and the said purchaser and the said notary public, justice of the peace or witnesses shall certify thereon that the samples were taken in the manner prescribed by law. One of such receptacles shall then be forwarded by the notary public, justice of the peace or witnesses by mail, postage prepaid, and properly addressed to the seller, and the other of such receptacles shall be forwarded to the commissioner of agriculture and industries by mail, postage prepaid, who shall cause the same to be analyzed by the state chemist, and all such samples shall have precedence in the order of analysis over all other analyses made by the state chemist, unless otherwise ordered by the commissioner of agriculture and industries. The result of such analysis shall then be forwarded to the commissioner of agriculture and industries, who shall record the same in his office. One copy of such analysis, under the seal of the department of agriculture and industries, shall be forwarded to the seller, and one copy thereof under the seal of the department shall be forwarded to the purchaser. Such official analysis shall be admissible as evidence in any of the courts of the state on the trial of any issue involving the merits of the particular lot of fertilizer or fertilizer material so sampled and analyzed.

As amended, Aug. 14, 1907, p. 744, § 15.

45. (392) (144) Fertilizer; what not included in term.—The term "fertilizer material" used in this article shall not include common lime, land plaster, cotton seed meal, ashes, or common salt not in combination; and the term "filler," when used in this article, shall be understood to mean any foreign or make weight material used in the manufacture of any complete fertilizer.

(Feb. 17, 1885, p. 168, § 24.)

Jan. 27, 1899, p. 22, § 2; as amended, Aug. 13, 1907, p. 642, § 1.

46. (393) (145) Chemist of department.—The professor of agricultural chemistry of the Alabama Polytechnic Institute is the official chemist of the department. On the application of the commissioner he must analyze and certify the analysis of all fertilizers, samples of which are furnished him in the manner prescribed by law; and, at the request of the commissioner, if he can, without conflict with his other duties, must attend conventions of agricultural chemists, make reports of such matters as he may deem of interest to the de-

Cottonseed Meal; Regulation of.

partment, and render such other services in the line of his profession as the commissioner may require, and the chemist, when necessary, may depute the ranking member of the chemical staff of the state chemical laboratory to report and sign analysis, and to make reports upon such matters as the chemist may refer to him.

47. (394) (146) **Analysis of fertilizers by Alabama Polytechnic Institute.**—The trustees of the Alabama Polytechnic Institute shall cause, without charge therefor, an analysis to be made of all fertilizers submitted by the commissioner of agriculture and industries for analysis. The chemist is entitled to his necessary traveling expenses, while on duty assigned to him by the commissioner, payable from the funds of the department, on the certificate of the commissioner.

Mar. 4,
1907, p.
283, § 1.

As amend-
ed, Jan.
27, 1899,
p. 23.

48. (395) (147) **Copy of official analysis evidence.**—The copy of the official analysis of any fertilizer or chemical, under the seal of the department of agriculture and industries, shall be admissible as evidence in any of the courts of this state, on the trial of any issue involving the merits of such fertilizer or chemical.

ARTICLE 3.

COTTONSEED MEAL; REGULATION OF. 49, 50.

SECTION.

49. Sale of cotton seed meal regulated.

SECTION.

50. Duty of state chemist.

49. **Sale of cotton-seed meal regulated.**—Any person, firm or corporation offering for sale as fertilizers cotton-seed meal in this state shall have tags attached to each bag with a guaranteed analysis of such meal printed thereon, and, in case of sale in bulk, shall have such analysis set forth in the contract of sale stating the per cent of ammonia, phosphoric acid and potash contained therein; and no cotton-seed meal containing less than 8 per cent of ammonia shall be sold as fertilizers in this state, and all such cotton-seed meal containing 8 per cent ammonia as above, offered for sale as fertilizers in sacks, bags or other packages or parcels shall have plainly stamped or printed in large capital letters upon the sacks, bags or other packages or parcels containing the same the words "high grade," and all cotton-seed meal offered for sale in sacks, bags or other packages or parcels which contains less than 8 per cent ammonia, shall have plainly stamped or printed in capital letters upon the sacks, bags or other packages or parcels containing the same the words, "low grade."

Mar. 2,
1907,
p. 212, § 1.

Funds of the Department of Agriculture and Industries.

Mar. 2,
1907, p.
212, § 2.

50. Duty of state chemist.—The state chemist at Auburn shall analyze any sample of cotton-seed meal sent him by any consumer in this state, and his certificate of such analysis shall be accepted as prima facie correct in all the courts of this state in the trial of any case arising under this article.

ARTICLE 4.

FUNDS OF THE DEPARTMENT OF AGRICULTURE AND INDUSTRIES. 51, 52.

SECTION.

51. Funds of department.

SECTION.

52. Expenses of department.

51. (396) (148) Funds of department.—All moneys received by the department from fees for licenses, from sales of tags, from fees for the registration of lands for sale, or from any other source, must be paid into the state treasury daily; and such moneys must be, by the auditor and treasurer, entered on the books of their respective offices to the credit of the department of agriculture and industries.

(Feb. 17, 1885, p. 168, § 18.) Appropriations for agricultural schools.—*State v. White*, 116 Ala. 202 (23 So. 31).

52. (397) (149) Expenses of department.—The commissioner must submit, monthly, to the governor, an account of the expenses of the department for the preceding month, and an estimate of the expenses for the succeeding month, and, with the approval of the governor indorsed thereon, draw from the funds in the treasury to the credit of the department of agriculture and industries, upon the warrant of the state auditor, the amount of such estimate, not to exceed the sum of five hundred dollars, to meet such expenses, not including the salary of the commissioner and his clerks; such estimate, with the approval of the governor, to be filed in the office of the state auditor. The traveling expenses of the commissioner and clerks, and of the chemist, on the accounts thereof being itemized and verified before payment, may be paid from the money so drawn.

(Feb. 28, 1889, p. 729; Feb. 17, 1885, p. 168, §§ 22, 29.)

ARTICLE 5.

AGRICULTURAL EXPERIMENT STATIONS AND SCHOOLS. 53-69.

SECTION.

- 53. Experiment station of Alabama Polytechnic Institute.
- 54. Canebrake agricultural experiment station.
- 55. Board of control.
- 56. Authority of board.
- 57. Duties of board.
- 58. Expenses of station.
- 59. Branch agricultural experiment stations and schools for every congressional district; how governed and controlled.
- 60. Appropriations out of agricultural fund; when prorated.
- 61. Not less than seven hundred and fifty dollars to be used in making agricultural experiments.

SECTION.

- 62. Treasurer to give bond in sum of one thousand dollars.
- 63. Director of school.
- 64. Bulletins to be prepared and published.
- 65. President to make annual report to superintendent of education.
- 66. President to make quarterly report to board as to finances.
- 67. Scientific agriculture must be taught.
- 68. Appropriation withheld unless agricultural experiments conducted by school.
- 69. Course of study and training; certificate of proficiency or diploma.

53. (398) (150) Experiment station of Alabama Polytechnic Institute.—The trustees of the Alabama Polytechnic Institute may establish and maintain an agricultural experiment station at which careful experiments in scientific agriculture shall be made; the results whereof shall be published as often as may be deemed necessary, and the trustees of the institute shall cause, without charge therefor, an analysis to be made of all fertilizers submitted by the commissioner for analysis.

As amended, Feb. 28, 1903, p. 65, § 4.

(Feb. 17, 1885, p. 168, § 21; Feb. 28, 1889, p. 119.) Appropriations for agricultural schools.—State v. White, 116 Ala. 202 (23 So. 31).

54. (399) (151) Canebrake agricultural experiment station.—A branch agricultural experiment station, for the purpose of conducting and making experiments in scientific agriculture, is established and located at or near Uniontown, in Perry county, known as the Canebrake Agricultural Experiment Station.

(Feb. 17, 1885, p. 144, § 1; Feb. 16, 1887, p. 828, § 1.)

55. (400) (152) Board of control.—The station is under the general supervision and control of a board of control composed of the commissioner of agriculture and industries, the director of the experiment station at the Alabama Polytechnic Institute, and five progressive farmers, to be appointed by the governor, who are actually engaged in cultivating canebrake lands, three of whom must reside within ten miles of the station, and who must not receive any compensation other than

Agricultural Experiment Stations and Schools.

expenses actually incurred in visiting the station, and while there supervising its affairs.

56. (401) (153) Authority of board.—The board has authority to appoint and to discharge at pleasure such officers, agents, or servants as are deemed necessary to the operation of the station, fixing their compensation; and may appoint a director to conduct and control the operations of the station, under the superintendence and direction, and subject to the rules and regulations of the board, and may pay such director a reasonable salary not to exceed two hundred and fifty dollars per annum.

57. (402) (154) Duties of board.—The board must cause such experiments to be made at the station as will advance the interests of scientific agriculture, particularly on cane-brake lands, and to cause such chemical analyses to be made as are deemed necessary; all such analyses, if requested, to be made, under the supervision of the commissioner of agriculture and industries, by the chemist of the agricultural department without charge.

58. (403) (155) Expenses of station.—The expenses of the Canebrake Agricultural Experiment Station, not exceeding twenty-five hundred dollars annually, must be paid out of the funds of the agricultural department, to the treasurer of the board of control, in equal quarterly installments, on the first days of January, April, July and October.

Amended,
Sep. 30,
1908, p.
259, § 1.

59. (404) Branch agricultural experiment stations and schools for every congressional district; how governed and controlled.—The branch agricultural experiment stations and schools established for the first district at Jackson, Clarke county, in the second district at Evergreen, Conecuh county, in the third district at Abbeville, Henry county, in the fourth district at Syllacauga, Talladega county, in the fifth district at Wetumpka, Elmore county, in the sixth district at Hamilton, Marion county, in the seventh district at Albertville, Marshall county, in the eighth district at Athens, Limestone county, and in the ninth district at Blountsville, Blount county, are under the supervision and control of a board of control to be composed of the following members: The governor, the state superintendent of education, the commissioner of agriculture and industries, and two qualified electors of the respective congressional districts wherein the school for which they are appointed is located. The members from the congressional districts shall be appointed by the governor; and shall only serve as members of the board for the school which is located in their respective congressional districts. Their terms of office shall be for a period of four years, and until their suc-

Agricultural Experiment Stations and Schools.

cessors are appointed. The members of the board must not receive any compensation other than traveling expenses incurred in attending meetings of the board of control. The board of control shall have power to select a treasurer for each school, fix his bond and prescribe his duties, and from time to time, as the interests of the school may demand, shall require of him an additional or new bond. The board of control shall also have the power to select such other officers as they may deem advisable, prescribe their duties and remove them whenever in the judgment of the board the interests of the school require, and the board shall have power to make all necessary arrangements for drawing the funds provided by law and the disbursement of the same, and to make all needful rules and regulations and contracts necessary for the proper conduct of the school.

(Feb. 28, 1889, p. 1036; Feb. 13, 1893, p. 526; Feb. 21, 1893, p. 695; Feb. 21, 1893, p. 749; Feb. 18, 1895, p. 838; Feb. 18, 1895, p. 581.)

60. (406) Appropriations out of agricultural fund; when prorated.—For the support of the nine branch agricultural schools and experiment stations, located in the first, second, third, fourth, fifth, sixth, seventh, eighth and ninth congressional districts, respectively, in the State of Alabama, there shall be appropriated annually the sum of four thousand five hundred dollars to each of said schools, one-fourth of such sum to be paid quarterly, to wit: January 1st, April 1st, July 1st and October 1st of each year to the treasurer of the board of control of such schools.

As amended, Mar. 2, 1907, p. 134.

(Jan. 30, 1897, p. 465, § 3.)

61. (407) Not less than seven hundred and fifty dollars to be used in making agricultural experiments.—Not less than seven hundred and fifty dollars of the sum so appropriated to each of said schools shall be used in maintaining, cultivating and improving the farms respectively, and making agricultural experiments thereon under and by direction of the board of control and the professor of agriculture of the Alabama Polytechnic Institute. The course in scientific agriculture and floriculture, as required in section 67 (413), shall be formulated for the schools and experiment stations by the said professor of agriculture of the Alabama Polytechnic Institute. When on official visits said professor of agriculture shall be paid by the board of control his traveling expenses thus incurred.

As amended, Sep. 30, 1908, p. 250, § 1; Mar. 2, 1907, p. 134, § 2.

(Jan. 30, 1897, p. 465, §§ 1, 2.)

62. (408) Treasurer to give bond in sum of one thousand dollars.—The treasurer of the board of control shall give

Agricultural Experiment Stations and Schools.

bond, payable to the president of the board of control, in the sum of at least one thousand dollars, conditioned to faithfully keep and disburse the funds of the school, and such board of control may require an additional bond at any time it may deem necessary.

(Jan. 30, 1897, p. 465, § 8.)

63. (409) Director of school.—The president or principal of each of said schools shall be the director of the respective school and station in which he is employed, and he shall personally superintend the making of such experiments as will advance the interests of scientific agriculture and cause such chemical analyses to be made as are deemed necessary, and perform such other duties in reference to such experiment stations as shall be required of him by the board of control.

64. (410) Bulletins to be prepared and published.—The president and board of control of said agricultural schools and experiment stations shall, from time to time, prepare bulletins of information for farmers and reports of agricultural experiments conducted by them, and answers to questions that may be asked them in practical farming and veterinary diseases, including condensed reports of the experiment station at Uniontown, and publish the same in all the weekly newspapers published in their respective congressional districts whose publishers will insert the same free of charge.

65. (411) President to make annual report to superintendent of education.—It shall be the duty of the president or principal of each of said schools to make to the superintendent of education, on or before September 30th of each year, a full report of the financial condition, workings and progress of said school, embracing an itemized account of all receipts and disbursements of money appropriated to such schools by this article, and a like report to the commissioner of agriculture and industries of the condition, expenses and workings of the experiment station connected with such school.

66. (412) President to make quarterly report to board as to finances.—It shall be the duty of the president and principal of each of such schools to report in writing quarterly to the board of control an itemized account of all incidental or matriculation fees and all other moneys received by him as such president or principal, together with the disposition of the same. He shall give receipts for all moneys received and take receipts for all moneys disbursed by him.

67. (413) Scientific agriculture must be taught.—Scientific and practical agriculture shall be taught at all the agricultural schools, and all male pupils over ten years of age who

Farmers' Institutes and Agricultural Fairs.

receive free tuition therein shall be required to take the course in scientific agriculture and horticulture, and all other pupils over the age of ten years receiving free tuition shall be required to take the course in floriculture and horticulture.

68. (414) **Appropriation withheld unless agricultural experiments conducted by school.**—None of the said schools shall receive the appropriation provided for in this article, or any part thereof, unless such school shall be actually conducting an agricultural experiment station and agricultural school wherein such experiments are made as will tend to advance the interests of scientific farming.

69. (415) **Course of study and training; certificate of proficiency or diploma.**—The board of control and president of the faculty of said schools shall adopt a course of study with a view to educating and training pupils for teachers in the public schools of this state, which course of study shall embrace the different grades adopted by the state; to grant certificates of proficiency or diplomas to such pupils as shall complete the course of study so adopted, provided, that such certificates of proficiency or diplomas shall not entitle the holder to teach in the public schools in the state without examination.

ARTICLE 6.

FARMERS' INSTITUTES AND AGRICULTURAL FAIRS. 70-72.

SECTION.

70. Farmers' institutes.

71. Expenses of institutes.

SECTION.

72. Agricultural fairs; taxes on privileges remitted to.

70. (416) **Farmers' institutes.**—The commissioner is authorized and directed to adopt annually such measures as may be necessary to successfully conduct, in different sections of the state, farmers' institutes, consisting of lectures on subjects related to agriculture by persons of scientific attainments, and by practical and successful farmers, with discussions relating thereto, and of such exhibitions as may prove instructive and of practical value to the farmers of the vicinity where such institutes are held, a report of which, with a detailed statement of the money expended in that connection, must be embodied in his annual report.

(Feb. 28, 1889, p. 669.)

71. (417) **Expenses of institutes.**—The commissioner is authorized to pay the necessary expenses incurred in conducting such farmers' institutes, including the expense of employing lecturers when necessary, and for distributing the reports thereof; and for this purpose there is annually appropriated

Appropriation for Use of Department of Agriculture and Industries.

out of the funds of the department of agriculture and industries, three thousand dollars, or so much thereof as may be necessary to be paid from the monthly estimate and allowance for expenses of the department.

72. (418) Agricultural fairs; taxes on privileges remitted to.—All state, county and municipal taxes on privileges are remitted and released to all agricultural fairs which may be granted or sold by them and conducted on their grounds during the exhibition of such fairs, on which a tax is now or may hereafter be levied by state, county or municipal authority; but this section shall not be construed to authorize any fair to sell or grant privileges on the grounds to wheels of fortune, or any game of chance, or any device inimical to the laws of the state.

ARTICLE 7.

APPROPRIATION FOR USE OF DEPARTMENT OF AGRICULTURE AND INDUSTRIES. 73-75.

SECTION.

73. Annual appropriation of four thousand dollars to department of agriculture and industries.

SECTION.

**74. Payment of auditor's warrant.
75. Reports monthly to governor.**

Aug. 9,
1907, p.
751, § 1.

73. Annual appropriation of four thousand dollars to department of agriculture and industries.—There is appropriated annually for the use of the department of agriculture and industries, on approval of the governor, four thousand dollars out of any moneys arising from the sale of fertilizer tags, sales of licenses to deal in fertilizers, or any other moneys collected by the department of agriculture and industries and paid into the state treasury, not otherwise appropriated, for the purpose of obtaining samples of each and every brand of fertilizer sold or exchanged, or offered for sale and exchange in the State of Alabama, for each season in which fertilizers are offered for sale, and publishing the same; and for holding farmers' institutes, making experiments, gathering statistics, and carrying into effect all laws now in existence or that may hereafter be passed for the betterment of the agricultural interests of the state.

Aug. 9,
1907, p.
751, § 2.

74. Payment by auditor's warrant.—The auditor of Alabama shall draw his warrant upon the treasury of Alabama for such sums as the commissioner of agriculture and industries may make requisition for, upon the approval of the governor, at the end of each month, not to exceed the said amount of four thousand dollars for any fiscal year; but nothing contained in this article shall be construed as interfering with

Soil Surveys and Analysis.

the provisions as set forth in section 397 of the Code of Alabama of 1896.

75. Reports monthly to governor.—The commissioner of agriculture and industries shall submit monthly reports to the governor of all moneys received and expended by the department of agriculture and industries. Aug. 9, 1907, p. 751, § 8.

ARTICLE 8.

SOIL SURVEYS AND ANALYSIS. 76-79.

SECTION.

76. Soil surveyors appointed; duties cf.

77. Surveys, results of mapped and printed.

SECTION.

78. State surveyor may cooperate with United States surveyor.

79. Appropriation for soil survey.

76. Soil surveyors appointed; duties of.—The commissioner of agriculture and industries may appoint, on approval of the governor, one or more persons, who shall be known as soil surveyors, and whose duties it shall be to investigate, survey, analyze, class soils; and investigate the cause and prevention of diseases in farm products and plants, and the drainage of soils and the investigation of methods of growing and fermenting of tobacco in the different tobacco sections of the state, and to determine the relative crop values of soils in the areas surveyed; to further make investigations with the view of introducing more remunerative crops, or crops better adapted to the conditions and peculiar characteristics of the soils surveyed, and to give the location and boundaries of the areas surveyed, and describe the general topographic features and regional drainage, character and source of population, present conditions as to settlement, chief towns, transportation facilities, markets and water powers and timber resources. The soil surveyor or surveyors shall attend the state agricultural institutes and other agricultural meetings or schools, and lecture on soils, exhibiting maps of areas surveyed, and furnishing such other information as shall be required by the commissioner of agriculture and industries. Aug. 13, 1907, p. 587, §§ 1 and 3.

77. Surveys; results of, mapped and printed.—The results of the investigations shall be carefully outlined and mapped in reports to the commissioner of agriculture and industries, who in return shall report the same to the governor. The reports shall be printed and maps lithographed in such a manner that the conditions and peculiar fitness of all areas thus examined, surveyed and analyzed can be furnished to the farmers of the state, and prospective immigrants and home- Aug. 13, 1907, p. 587, § 2.

seekers, and to those interested in improving their crops by understanding the classification of their soils.

Aug. 13,
1907, p.
587, § 4.

78. State surveyor may co-operate with United States surveyor.—When, in the judgment of the governor and commissioner of agriculture and industries, the state's interests shall be best served, then the soil surveyor or surveyors shall be required to work with and co-operate with the soil surveyors from the United States department of soils.

ib., § 5.

79. Appropriation for soil survey.—The sum of ten thousand dollars, or such part thereof as is necessary to carry out the purposes hereinbefore set forth in this article, is annually appropriated.

CROSS REFERENCES.

AGISTERS' LIEN (Civil Code)	4808, 4809
AGRICULTURAL (Civil Code)	4798-4805, 4742-4743
AGRICULTURAL AND MECHANICAL COLLEGE (Political Code)	1899-1911
AGRICULTURAL EXPERIMENT STATIONS AND SCHOOLS (Political Code)	53- 69
AGRICULTURAL LABORER'S LIEN (Civil Code)	4794-4805
AGRICULTURE AND HORTICULTURE (Criminal Code)	6223-6228
AIDES-DE-CAMP (Political Code)	930
ALABAMA BRYCE INSANE HOSPITAL (Political Code)	838- 878
ALABAMA GIRLS' INDUSTRIAL SCHOOL (Political Code)	1912-1932
" (Criminal Code)	6229
ALABAMA NATIONAL GUARD (Political Code)	929- 998
ALIENATION (Civil Code)	3354-3357, 4161
ALIENS (Civil Code)	2831
ALIMONY AND ALLOWANCE (Civil Code)	3803-3806
AMENDMENTS (Civil Code)	4139, 4140
In Suits at Law	5366-5368
In Chancery Court	3124-3128
AMENDMENTS OF APPEAL (Civil Code)	2885
AMENDMENTS TO CONSTITUTION (Political Code)	436-438, 390
AMENDMENTS TO PLEADINGS (Civil Code)	5369, 5370
ANALYSIS (Political Code)	43- 48
" (Civil Code)	5426
ANALYSIS, SOILS (Political Code)	76- 79

CHAPTER 3.

ANNEXATION OF WEST FLORIDA TO ALABAMA. 80, 81.

SECTION.

80. Governor to appoint commissioners.

SECTION.

81. Authority and power of commissioners.

80. Governor to appoint commissioners.—The governor may appoint three commissioners on the part of the State of Alabama to confer with a like commission on the part of the government of the State of Florida to provide for the annexation of that part of Florida to Alabama known as West Florida, and more particularly described as follows: All the said territory and jurisdiction now held by the State of Florida in and to and over that portion of the territory of the State of Florida lying and being west of the thread of the Chattahoochee and Appalachian rivers and west of a line running due south from the thread of the mouth of the Appalachian river, being west so as to pass between the islands of St. George and St. Vincent, known and called West Florida. Mar. 4, 1901, p. 192, § 1.

81. Authority and power of commissioners.—Said commissioners of this state may do and perform all acts requisite and necessary to perfect and consummate the agreement for the cession of the aforesaid territory to the State of Alabama, and whatever agreement for the cession of said territory to the State of Alabama may be made and entered into by said commissioners shall be reported back by them to the governor of the State of Alabama; provided, that no such agreement shall be binding upon the State of Alabama until the same shall be ratified and confirmed by the Legislature of Alabama and approved by the governor. ib., § 2.

CROSS REFERENCES.

ANIMALS (Civil Code)	2832-2836
" (Criminal Code).....	7324, 7326, 7330, 7337, 6230-6242, 7874, 7148
ANIMALS AND FENCES (Civil Code)	4240-4259
ANIMALS RUNNING AT LARGE (Civil Code)	3927-3957
ANSWER (Chancery) (Civil Code)	3107 et seq.
ANSWERS IN GARNISHMENT (Civil Code)	4316
APOTHECARY (Political Code)	1618 et seq.
APPEALS (Civil Code)	2837-2895
APPEALS (Criminal Code)	6243-6266, 7119

APPEARANCE IN COURT (Civil Code)	2989 et seq.
APPORTIONERS OF PUBLIC ROADS (Civil Code)	5780 et seq.
APPRAISEMENT (Political Code)	2078 et seq.
" (Civil Code)	2579 et seq.
APPRENTICES (Civil Code)	2896-2907
APPRENTICES (Criminal Code)	6849, 6852, 6853
ARBITRATION AND AWARD (Civil Code)	2908-2923
ARCHIVES AND HISTORY (Political Code)	793- 810
ARRAIGNMENT (Criminal Code)	7585, 7566
ARMS (Political Code)	968, 946
" (Criminal Code)	6421, 6424, 6893
ARREST OF JUDGMENT (Civil Code)	5366 et seq. 4845
ARRESTS (Criminal Code)	6267-6282, 6283-6294, 6351-6352
ARRESTS; REFUSING TO AID OFFICER (Criminal Code)	7708-7711
ARSON AND KINDRED OFFENSES (Criminal Code)	6295-6305
ASSAULT (Criminal Code)	6893, 6306-6310
ASSEMBLY (LEGISLATURE) (Political Code)	900 et seq.
ASSESSORS (Political Code)	2094 et seq.
ASSESSMENT OF TAXES (Political Code)	2102 et seq.
ASSIGNMENT FOR BENEFIT OF CREDITORS (Civil Code)....	6054, et seq.
ASSOCIATE JUSTICES (Civil Code)	5948, et seq.
ASSUMING OFFICE ILLEGALLY (Criminal Code)	7446
ASYLUM (Political Code)	838 et seq.
ATTACHMENTS (Civil Code)	2924-2971, 4694
ATTEMPTS (Criminal Code)....	6311, 7702, 7699, 6297, 6866-6868, 6215, 7315
ATTENDANCE (Civil Code)	4020-4029
ATTESTATION (Civil Code)	3355 et seq.
Wills	6172
ATTORNEY-GENERAL (Political Code)	634- 640
ATTORNEYS AT LAW (Civil Code)	2972-3011
ATTORNEYS AT LAW, AND THE PRACTICE OF LAW; CRIMINAL	
PROVISIONS AS TO (Criminal Code)	6312-6321
ATTORNMENT (Civil Code)	3365, 5747
AUCTIONEER (Political Code)	2084, 2361
" (Civil Code)	4290
AUDITOR (Political Code)	597- 615
AUTHORITY, JOINT (Political Code)	3
AUTOMOBILES (Civil Code)	3012-3015
AUTOMOBILES, LOCOMOBILE AND MOTOR VEHICLES (Criminal	
Code)	6322-6327
AUTOPSY (Civil Code)	5426
AWARDS (Civil Code)	2908-2923
BAGATELLE TABLE (Political Code)	2361
BAIL (Criminal Code)	6328-6360
BAILIFFS (Civil Code)	3264, 3265
" (Criminal Code)	6647
BALLOT-BOXES (Political Code)	346
BALLOTS (Political Code)	372, 373, 379, 390- 395
BANKS AND BANKERS (Civil Code)	3518 et seq.
" (Criminal Code)	6361-6363
BARGAIN (Civil Code)	3421
BARLEY (Political Code)	2439
BASTARDS (Civil Code)	5199, 5200, 3760, 3761, 4878, 4880
BASTARDY (Criminal Code)	6364-6388

BATTERY (Civil Code)	3255, 4641, 4835
BEACON-LIGHT (Criminal Code)	7870
BEANS (Political Code)	2439
BEASTALITY (Criminal Code)	6746
BELL (Civil Code)	5473
BENEFICIARY (Civil Code)	2489, 2490, 2495
BENEFIT AND MUTUAL AID ASSOCIATIONS (Civil Code).....	3564-3588
BENEFIT OF CLERGY (Criminal Code)	7621
BENEVOLENT SOCIETIES (Civil Code)	3613-3616
BETTERMENT TAX, MUNICIPAL (Political Code)	1359-1420
BETTING (Criminal Code)	6987-6991
BETTING (Civil Code)	3338-3344
BIGAMY (Criminal Code)	6389, 6390
BILLIARDS (Criminal Code)	6988, 6992
BILLIARD-TABLES (Political Code)	2361
BILL IN CHANCERY (Civil Code)	3094-3096
BILL OF DISCOVERY (Civil Code)	3735-3744
BILL OF LADING (Civil Code)	6131-6136
BILL OF PARTICULARS (Civil Code)	5326
BILL OF REVIEW (Civil Code)	3177, 3178
BILL OF REVIVOR (Civil Code)	3120
BILLS AND NOTES (Civil Code)	4958-5161
BILLS OF EXCEPTIONS (Civil Code).....	3016-3022, 2863-2865
BILLS OF EXCHANGE AND PROMISSORY NOTES (Civil Code).....	5145-5157, 5166-5174
BIETHS (Political Code)	699 et seq.
" (Criminal Code)	7050, 7053
BLACKLISTING (Criminal Code)	6394-6399
BLACKMAIL (Criminal Code)	6391
BLACKSMITHS AND WOOD-WORKMEN (Civil Code)	4785-4789
BLANKS (Political Code)	213, 2359, 578, 1647
" (Civil Code)	3278
BLIND (Civil Code)	1943-1948
BLOOD (Civil Code)	3758, 2523
BOARDING HOUSE LIEN (Civil Code)	4827, 4828
BOARD OF DENTAL EXAMINERS (Political Code)	219- 221
BOARD OF EDUCATION (Political Code)	1713 et seq.
BOARD OF MEDICAL EXAMINERS (Political Code)	1626, 1632
BOARD OF PHARMACY (Political Code)	1618, 1621
BOARD OF PUBLIC WORKS (Political Code)	1233-1250
BOARD OR LODGING (Criminal Code)	6934
BOARDS OF HEALTH (Political Code)	698 et seq.
BOARS (Civil Code)	4810-4813
BOATS (Political Code)	2361
" (Civil Code)	4790, 4791
" (Criminal Code)	6392, 7499, 7501, 7502, 6300
BONDED INDEBTEDNESS (Political Code)	1436-1438
BONDS FOR PUBLIC UTILITIES (Political Code)	1421-1435
BONDS FOR TITLE TO CONVEY LAND (Civil Code)	3441-3444

CHAPTER 4.

BONDS OF STATE, FUNDING; WHEN PAYABLE. 82.

Feb. 11,
1897, p.
802, § 1.

82. Bonds of State; when payable.—Any bonds which may be issued by the governor of Alabama for the purpose of renewing or funding the bonded debt of this state shall be made payable and subject to redemption at any time not exceeding fifty years from the date of issue of said bonds.

CROSS REFERENCES.

BOOKS AND PAPERS (Political Code)	1549-1555, 591 et seq.
BOOKS AND STATIONERY (Political Code)	213, 578, 1647, 2359
" (Civil Code)	3278
BOOMS (Criminal Code)	7866, 7867, 7873
BOOMS (Civil Code)	4818-4821
BOTTLES (Criminal Code)	7318-7321
BOUNDARIES OF MUNICIPALITIES (Political Code)	1070-1155

CHAPTER 5.

BOUNDARIES OF THE STATE. 83-85.

SECTION.	SECTION.
83. Boundaries of the state.	85. Boundary between Alabama and Florida.
84. Boundary between Alabama and Georgia.	

83. (623) (12) (12) (16) (15) Boundaries of the state.—The boundaries of this state are established and declared to be as follows; that is to say: Beginning at the point where the thirty-first degree of north latitude crosses the Perdido river; thence east to the western boundary line of the State of Georgia; thence along said line, to the southern boundary line of the State of Tennessee; thence west along the southern boundary line of the State of Tennessee, crossing the Tennessee river, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear creek; thence by a direct line, to the northwest corner of Washington county, in this State, as originally formed; thence southerly along the line of the State of Mississippi to the Gulf of Mexico; thence eastwardly, including all islands within six leagues

of the shore, to the Perdido river; and thence up the said river to the beginning.

Boundaries of Mississippi Territory, Toulmin's Digest, p. 76; territory ceded by Georgia, Toulmin's Digest, p. 77; territory called Alabama, Toulmin's Digest, p. 78. (Aikin's Digest, p. 29, § 4; p. 30, § 6; Clay's Digest, p. 47, § 4; p. 48, § 6.)

Note.—A strip twelve miles wide on the northern part of the state was ceded by South Carolina to the United States, and then granted to the Mississippi Territory.

84. (624) (13) (13) (17) (16) Boundary between Alabama and Georgia.—The boundary line between Alabama and Georgia commences on the west side of the Chattahoochee river, at the point where it enters the State of Florida; from thence up the river, along the western bank thereof, to the point on Miller's Bend, next above the place where the Uchee creek empties into such river; thence in a direct line to the Nickajack.

(Clay's Digest, p. 48, § 9.) In *Howard v. Ingersoll*, 17 Ala. 780, the boundary of the state, it was held commenced at low-water mark, on the west side of the Chattahoochee river, from the point where it enters the present state of Florida, to the "great bend" next above the place where the Uchee creek empties into the said river. In other words, low-water mark on the west side of the Chattahoochee river was the line which separated the jurisdiction of the State of Alabama from the State of Georgia. On writ of error to the supreme court of the United States, the decision was reversed, a majority of the court holding that the boundary line between the two states was not low-water mark on the west side of the Chattahoochee river, but a line running up the river on and along its western bank, and that the jurisdiction of Georgia extended to the line which is washed by the water wherever it covers the bed of the river within its banks. The permanent fast land bank governs the line. From the lower edge of that bank the bed of the river commences, and the jurisdiction of Georgia extends to the lower edge of the bank on the west side of the river. *Nelson and Grier, JJ., dissenting, held, that the true boundary line between the states of Georgia and Alabama was not a line drawn on the bank or bluff of the river, at high-water mark, but the line marked by the permanent bed of the river, by the flow of the water at its usual and accustomed stage, and where the water will be found at all times in the season, except when diminished by drought or swollen by freshet.*—*Howard v. Ingersoll*, 13 Howard, 381.

The boundary line between the states of Georgia and Alabama depends upon the construction of the following words of the contract of cession between the United States and Georgia, describing the boundary of the latter, namely: "West of a line beginning on the western bank of the Chattahoochee river, where the same crosses the boundary between the United States and Spain, running up the said river, and along the western bank thereof."—*State of Alabama v. State of Georgia*, 23 Howard, U. S. 505.

"It is the opinion of this court that the language implies that there is ownership of soil and jurisdiction in Georgia, in the bed of the river Chattahoochee, and that the bed of the river is that portion of its soil which is alternately covered and left bare, as there may be an increase or diminution in the supply of water, and which is adequate to contain it at its average and mean stage during the entire year, without reference to the extraordinary freshets of the winter or spring, or the extreme drought of summer or autumn."—*Ib.*

The western line of the cession on the Chattahoochee river must be traced on the water-line of the acclivity of the western bank, and along that bank where that is defined; and in such places on the river where the western bank is not defined, it must be continued up the river on the line of its bed, as that

is made by the average and mean stage of the water, as that is expressed in the conclusion of the above recited paragraph."—Ib.

By the contract of cession, the navigation of the river is free to both parties.—Ib.

85. (625) (14) (14) (18) (17) **Boundary between Alabama and Florida.**—The boundary line between Alabama and Florida is the line commonly known as the "mound line," or "Ellicott's line," as distinguished from a blazed line, known as the "upper" or "Coffee line," commencing at a point on the Chattahoochee river, near a place known as "Irwin's Mills;" and from thence to the Perdido river, marked the whole distance by blazes on the trees and by mounds of earth, at distances of about one mile.

CROSS REFERENCES.

BOUNDARIES, MONUMENTS, ETC. (Criminal Code)	6393
BOWIE-KNIFE (Political Code)	2361
" (Criminal Code)	6421, 6425, 7093, 6896
BOWLING-ALLEY (Political Code)	2361
BOYCOTTING AND BLACKLISTING (Criminal Code)	6394-6399
BRANDS AND MARKS (Civil Code)	4873-4876
BREAD (Criminal Code)	7075-7077
BRIBERY (Criminal Code)	6400-6411
BREWERS (Political Code)	2361
BRIDGES AND STREETS (Criminal Code)	7727-7745
BRIDGES, CAUSEWAYS AND FERRIES (Civil Code)	3023-3041
BRIDGES, RAILROAD TRACKS IN TOWNS AND CITIES (Political Code)	1296-1301
BRIDGES (Criminal Code)	7730, 7731, 7872
BRINGING STOLEN PROPERTY INTO STATE (Criminal Code) ..	7328, 7231
BROKERS (Political Code)	2361
BRYCE HOSPITAL (Political Code)	838- 878
BUCKET SHOPS (Criminal Code)	6473-6478
BUILDING (Civil Code)	4747-4753
BUILDING AND LOAN COMPANIES (Criminal Code)	6412
BUILDING AND LOAN COMPANIES (Civil Code)	3597-3612
BUILDINGS, FENCES, ETC.; INJURING OR DEFACING (Criminal Code)	6413, 6414
BULKHEADS (Civil Code)	4818-4821
BULL (Civil Code)	4810
BURGLARY (Criminal Code)	6415-6418
BURIAL ASSOCIATIONS (Political Code)	538- 545
BURIAL GROUNDS IN TOWNS AND CITIES (Political Code) ..	1309, 1310

CHAPTER 6.

BURIAL PLACES, GRAVEYARDS, CEMETERIES, LOCATION OF. 86-97.

SECTION.

- 86. Petition for commission to mark boundaries of burial places.
- 87. Appointment of commission.
- 88. Fix boundaries, survey, plat, etc.
- 89. Assessment of damages.
- 90. Payment of damages and costs.
- 91. Dedication to the public.

SECTION.

- 92. Appeal in such proceedings.
- 93. Bond for appeal.
- 94. Jury trial on such appeal.
- 95. Hearing on trial.
- 96. Judgment or order of the court.
- 97. Property not dedicated until damages and costs paid.

86. Petition for commission to mark boundaries of burial places.—Five or more citizens may petition the judge of probate of any county in which any burial place, graveyard, or cemetery is located, requesting him to appoint a commission to locate, mark the boundaries, plat and survey such burial place, or to enlarge the area of any burial place, mark the boundaries thereof, plat and survey the part enlarged. Sep. 26,
1906,
p. 275,
§ 1.6.

87. Appointment of commission.—Upon the filing of such petition the judge shall appoint a commission, not to exceed five, nor less than three, to locate the boundaries, survey, map and plat such burial place, and shall forthwith notify each member of such commission of his appointment, and issue to him a commission directing him to perform the duties required of him under this chapter. Ib.

88. Fix boundaries, survey, plat, etc.—Within sixty days after their appointment the commission shall meet at the proposed burial place, fix the boundaries, and mark with posts, brick, stone, or other durable material, the graveyard to be established or enlarged, and shall make their report in writing and file the same in the office of the judge of probate. Ib., §§ 7.

89. Assessment of damages.—The commission shall also assess the damages suffered by any person by reason of the taking of his property or injury thereto in locating and marking boundaries for burying places, which shall be included in their report to the probate judge, and shall state the names of the owners of land so taken or injured. Ib., §§ 8, 9.

90. Payment of damages and costs.—Upon the payment to the probate judge by the petitioners of the amount of damages assessed, together with the costs of the proceeding, the judge shall cause such proceedings to be recorded in the probate office in said county. Ib., § 9.

91. Dedication to the public.—After such proceedings are recorded the burial place so located, bounded or enlarged Ib., § 12.

as shown by such proceedings shall be thereafter dedicated to the public and may be used for a burying place.

Sep. 26,
1908, p.
276, § 11.

92. Appeal in such proceedings.—Any party interested in such proceeding to locate and fix boundaries of burial places, as provided for in this chapter, may appeal to the probate court within thirty days from the filing of such report for the purpose only of fixing the amount of damages to the property taken or injured.

Ib., § 11.

93. Bond for appeal.—Any person desiring to appeal as provided for in this chapter shall execute a bond in an amount to be fixed by the probate judge and payable to him for the use of any person injured, conditioned to prosecute such appeal to effect and to pay or perform such judgment or decree as may be rendered against him in the probate court, which bond must be approved by the probate judge.

Ib., §§ 5, 11.

94. Jury trial on such appeal.—On the approval of such appeal bond by the probate judge, he shall set a day for hearing the same, not less than ten nor more than thirty days from that date, and must summon and empanel jurors, as provided for in contests of wills in such court, and shall give notice to the adverse parties of such hearing.

Ib.

95. Hearing on trial.—On the hearing of such trial the court shall cause an issue to be made between the parties interested to ascertain the amount of damages for the property taken or injured in locating the burial place. Either party may examine witnesses on such trial, and may argue the questions to the court or jury by themselves or counsel, which questions must then be submitted to the jury for their determination, which amount of damages shall be fixed by the verdict of the jury.

96. Judgment or order of the court.—The court shall enter an appropriate order or judgment of the court, based upon the verdict of the jury fixing the amount of damages and awarding the costs against the parties, as may seem proper to the court.

97. Property not dedicated until damages and costs paid.—The property set apart for burial places as herein provided shall not be deemed as dedicated as herein provided until all damages and costs awarded shall have been paid into the probate court by the parties interested in the proceedings.

CROSS REFERENCES.

BURIAL-PLACE (Civil Code)	4163
BURIAL-SOCIETIES (Civil Code)	3613-3620
BURNING WOODS AND FORESTS (Criminal Code)	6906-6908
BUSHEL (Political Code)	2429-2439
BUTCHERS (Criminal Code)	6419
BUTTER (Political Code)	22
BUYING OR SELLING OFFICE (Criminal Code)	7445
CAMPAIGNS; CONTRIBUTIONS TO (Criminal Code)	6630
CANALS (Civil Code)	3903
" (Criminal Code)	7872
CANDIDATES FOR OFFICE (Political Code)	372, 373
CANDIES (Criminal Code)	7081
CANOE (Civil Code)	6151
CAPITAL CASES, SPECIAL VENIRES FOR (Criminal Code)....	7257-7269
CAPITOL (Political Code)	558- 565
CARDS (Political Code)	2361
CARDS, PLAYING (Criminal Code)	6983
CARNAL KNOWLEDGE (Criminal Code)	7696-7702
CARRIERS (Railroads) (Civil Code)	5473-5631
CARRYING CONCEALED WEAPONS (Criminal Code)	6421-6425
CARRYING ON BUSINESS WITHOUT LICENSE (Criminal Code)...	7712-7715
CASE (Civil Code)	5329
CASTING AWAY BOAT OR VESSEL (Criminal Code)	6300
CASUAL EJECTOR (Civil Code)	3839
CAUSEWAYS (Civil Code)	3023-3040
CATTLE (Civil Code) ..2832-2836, 3927-3954, 4243-4253, 4810-4813, 4873-4875	
CEMENT LABORATORIES (Political Code)	1893
CEMETERIES (Civil Code)	4163
CEMETERIES IN TOWNS AND CITIES (Political Code)	1309, 1310
CEMETERIES; LOCATION OF (Political Code)	86- 97
CENSUS FOR SCHOOLS (Political Code)	1717, 1718
CENSUS OF THE UNITED STATES (Civil Code)	3080
CERTIFICATE OF WITNESS (Civil Code)	3674, 3677, 3678
CERTORARI (Civil Code)	4868-4872
CESSIONS BY STATE TO UNITED STATES (Political Code)....	898, 899
CHAIN-BEARERS (Civil Code)	6021, 6025
CHALLENGE OF JURORS (Civil Code)	4634
" (Criminal Code)	7275-7278
CHALLENGE OF VOTERS (Political Code)	370, 407- 411
CHALLENGE TO FIGHT DUEL (Criminal Code)	6771, 6772
CHALLENGE TO THE ARRAY (Criminal Code)	7256, 7258
CHANCELLORS (Political Code)	1535-1548
" (Civil Code)	3055-3069
CHANCERY COURTS (Civil Code)	3042-3223
CHANGE BILLS (Civil Code)	5150, 5152, 4625
" (Criminal Code)	6426, 6427
CHANGE OF NAME (Civil Code)	5201, 5202
CHANGE OF VENUE (Civil Code)	6116-6122, 6204-6206
" (Criminal Code)	7851-7858
CHARGE OF COURT (Civil Code)	5362-5365
CHATTEL-MORTGAGES (Civil Code)	3376, 3377, 3789-3791

CHATTEL REAL (Civil Code)	3404
CHEATS AND FRAUDS (Criminal Code)	6920-6938
CHECKS, NOTES AND BILLS (Civil Code)	4958-5161
CHIEF JUSTICE (Civil Code)	5948
CHILD LABOR (Criminal Code)	6428-6449
CHILDREN (Civil Code)	2896-2907, 5199-5202, 3767-3777, 4505-4511
CHILDREN, JUVENILE DELINQUENTS (Criminal Code)	6450-6465
CHOKING HORSE (Criminal Code)	6239
CHOSSES IN ACTION (Civil Code).....	4958-5161, 5144-5149 5153-5161, 3189-3192, 5166, 5171, 5173
CHURCHES (Civil Code)	3613-3619, 3622, 3625, 3626, 4163
CIGARETTES (Political Code)	2361
" (Criminal Code)	6466
CIRCUIT (Political Code)	2
CIRCUIT COURTS (Civil Code)	3229-3295
CIRCUIT COURTS (Criminal Code)	6694
CIRCUIT COURT CLERK (Political Code)	332, 336
" (Civil Code)	3269-3278
CIRCUIT JUDGE (Civil Code)	3255-3268
CIRCUS (Political Code)	2361
CITIES (Political Code)	1046-1460
CITIZEN (Civil Code)	2474
CITIZEN SOLDIERY (Political Code)	929- 998
CITY COURT CLERK (Political Code)	336
" (Civil Code)	2987
CITY COURTS (Civil Code)	3296-3300
" (Criminal Code)	6695
CIVIL LAW (Civil Code)	3757
CLAIM SUITS (Civil Code)	6039-6053
CLAIMS OF EXEMPTIONS (Civil Code)	4168-4195
CLERGYMAN (Civil Code)	4881-4883
CLERKS OF CIRCUIT COURT (Civil Code)	3269 et seq.
CLERKS OF COURT (Criminal Code)	7797, 7798, 7801
CLERKS OF MUNICIPALITIES (Political Code)	1199-1203
CLERKS OF SUPREME COURT (Civil Code)	5983-5994
CLOCKS (Political Code)	2361
CLOUD ON TITLE (Civil Code)	5443-5448
COAL (Political Code)	1009
COAL OIL (Political Code)	2361
COAL MINES; INSPECTION OF (Political Code)	999-1038
COCK FIGHTING (Criminal Code)	6467, 6468
CODE (Political Code)	1-10, 1884, 2060
COLLATERAL KIN (Civil Code)	3756
COLLATERAL SECURITIES; PLEDGES (Civil Code)	3301-3305
COLLECTOR (Political Code)	2160-2209
COLOR (Civil Code)	5487, 5488
COLOR OF TITLE (Civil Code)	2830, 3850
COMBINES, TRUSTS AND MONOPOLIES (Criminal Code)	7579-7582
COMMERCE AND TRADE (Political Code)	2429-2439
" (Civil Code)	5144-5157, 3301-3305, 4287-4295, 4619-4625, 5265- 5289, 5150-5152, 4543-4596, 5162-5174, 5473-5513, 3730-3734
" (Criminal Code)	6671-6673, 6131-6142
COMMERCIAL AGENCY (Political Code)	2361
COMMERCIAL FERTILIZERS (Political Code)	24- 48
COMMERCIAL LAW (Civil Code)	4958-5161, 5143

CHAPTER 7.

COMMISSIONER OF DEEDS. 98.

98. (968) (64) (63) (65) (52) **Appointment of commissioners in other states.**—The governor may appoint commissioners in the other states and territories of the United States, to take and certify depositions, to receive the acknowledgment and take the proof of conveyances of property within this state, and the proof of wills executed by persons without the state, devising or bequeathing property within this state. Commissioners appointed under this section shall hold office for four years.

(Dec. 7, 1878, p. 45.) Courts take judicial notice of appointment.—Keller v. Moore, 51 Ala. 340. Alabama form of acknowledgment must be followed.—Keller v. Moore, 51 Ala. 340; E. T. V. & G. R. Co. v. Davis, 91 Ala. 615 (8 So. 349).

CROSS REFERENCES.

COMMISSIONER OF AGRICULTURE (Political Code)	14- 23
COMMISSIONER OF INSURANCE (Civil Code)	4545-4588
COMMISSIONERS' COURTS (Civil Code)	3306-3323
COMMISSIONS (Political Code)	1470, 1471, 1474
COMMON CARRIER (Civil Code)	5473-5631
COMMON CARRIERS AS WAREHOUSEMEN (Civil Code).....	6123-6142
COMMUTATIONS (Criminal Code)	7510-7516, 7653, 7654
COMPANY (Political Code)	2060
COMPLAINT (Criminal Code)	7584
COMPLAINT (Civil Code)	5327-5329
COMPOSITION (Civil Code)	3974.
COMPOUNDERS AND RECTIFIERS (Political Code)	2361
COMPOUNDING FELONY (Criminal Code)	6469
COMPROMISE (Political Code)	154
" (Civil Code)	2602-2604, 4391-4394
CONCERT (Political Code)	2361
CONDEMNATION BY MUNICIPALITIES (Political Code)	1439-1442
CONDEMNATION OF LANDS FOR PUBLIC USES (Civil Code)..	3860-3909
CONDITIONAL SALES (Civil Code)	3393-3395, 3789-3791
CONFEDERATE MONUMENT COMMISSION (Political Code)....	1039-1045
CONFEDERATE SOLDIERS, PENSIONS FOR (Political Code)....	1995-2055
CONFESSION OF JUDGMENT (Civil Code)	4295, 5752, 5395
" (Criminal Code)	6251, 7631-7635

CHAPTER 8.

CONGRESSIONAL DISTRICTS. 99, 100.

SECTION.

99. State divided into congressional districts.

SECTION.

100. One representative for each district, and by whom chosen.

As amend-
ed, Feb.
14, 1901,
p. 1156,
Local
Acts.

99. (969) (29) (29) (34) (31) **State divided into congressional districts.**—The state is divided into nine congressional districts, as follows: The first district shall be composed of the counties of Choctaw, Clarke, Marengo, Mobile, Monroe, and Washington. The second district shall be composed of the counties of Baldwin, Butler, Conecuh, Crenshaw, Covington, Escambia, Montgomery, Pike, and Wilcox. The third district shall be composed of the counties of Barbour, Bullock, Coffee, Dale, Geneva, Henry, Houston, Lee, and Russell. The fourth district shall be composed of the counties of Calhoun, Chilton, Cleburne, Dallas, Shelby, and Talledega. The fifth district shall be composed of the counties of Autauga, Chambers, Clay, Coosa, Elmore, Lowndes, Macon, Randolph, and Tallapoosa. The sixth district shall be composed of the counties of Fayette, Greene, Hale, Lamar, Marion, Pickens, Sumter, Tuscaloosa, and Walker. The seventh district shall be composed of the counties of Cherokee, Cullman, DeKalb, Etowah, Franklin, Marshall, St. Clair, and Winston. The eighth district shall be composed of the counties of Colbert, Jackson, Lauderdale, Lawrence, Limestone, Madison, and Morgan. The ninth district shall be composed of the counties of Bibb, Blount, Jefferson, and Perry.

(Feb. 13, 1891, p. 627; Feb. 10, 1883, p. 44; Mar. 19, 1875, p. 115; Feb. 19, 1867, p. 624.)

100. (970) (30) (30) (36) **One representative for each district, and by whom chosen.**—Each district is entitled to one representative in the congress of the United States, who shall be chosen by the qualified electors of the district.

(Mar. 19, 1875, p. 115; Feb. 19, 1867, p. 624, § 3.)

CROSS REFERENCES.

CONGRESS (Political Code)	99, 100, 331, 338, 439, 442
CONSERVATORS OF THE PEACE (Civil Code)	3331, 5416, 4642
CONSIDERATION (Civil Code)	3966, 5324
CONSOLIDATION (Civil Code)	5358
CONSOLIDATING MUNICIPALITIES (Political Code)	1126-1132
CONSPIRACY (Criminal Code)	6219, 6220, 6310, 6470-6472, 7388, 7749

CONSTITUTION (Political Code)436-438, 390- 392
 CONSTRUCTION (Political Code) 1-11
 " (Civil Code)3396-3440
 CONSTABLES (Civil Code)3324-3333
 CONTAGIOUS DISEASES (Health and Quarantine) (Political Code).698- 792
 CONTESTED ELECTIONS (Elections) (Political Code)455- 491
 CONTEMPTS (Civil Code)4630-4632
 " (Criminal Code)6693, 6995, 7032, 7038, 7534
 CONTINGENT FUND (Political Code)608, 1780
 CONTINGENT REMAINDER (Civil Code)3398-3401
 CONTINUANCES (Civil Code) 3126
 CONTRACT OF EMPLOYMENT; VIOLATIONS OF (Criminal Code)
 6845-6857
 CONTRACTOR (Civil Code)4754-4783
 CONTRACTS TO CONVEY LAND (Civil Code)3441-3444
 CONTRACTS (Civil Code)3334-3353
 " (Criminal Code)6473-6478
 CONTRIBUTION (between creditors of insolvent estate) (Civil Code)..
 2785-2787, 5405
 CONVEYANCES AND LOANS (Civil Code)3354-3444
 CONVICT SYSTEM (Criminal Code)6479-6607
 CONVICTS AND PRISONERS (Political Code)6608-6619
 CO-OPERATIVE ASSOCIATION (Criminal Code)7424, 7425
 CORN (Political Code) 2439
 CORN MEAL (Criminal Code)6620-6622

CHAPTER 9.

CORONERS. 101-112.

SECTION.

- 101. Coroners; election, term, etc.
- 102. Vacancy; how filled.
- 103. Bond.
- 104. Duty to hold inquests.
- 105. When to discharge duties of jailer.
- 106. When to discharge duties of sheriff.
- 107. When sheriff interested, coroner acts.

SECTION.

- 108. Official acts valid though process directed to any sheriff, etc.
- 109. Additional bond; failure to give vacates office; vacancy certified.
- 110. Liability for neglect of duty.
- 111. Special coroner; when and by whom appointed.
- 112. Duties of special coroner.

101. (1073) (923) (852) (935) (800) **Coroners; election, terms, etc.**—A coroner for each county is elected by the qualified voters thereof, who holds office for four years from the first Monday after the second Tuesday in January next after his election, and until his successor is elected and qualified.

Original statutes providing for, passed Feb. 10, 1807.—Toulmin's Digest, pp. 717 et seq. (Aikin's Digest, pp. 96, 97, 100, § 3; Clay's Digest, pp. 158, 159; Mar. 6, 1876, p. 103, § 6; Feb. 21, 1893, p. 1091, § 4.)

102. (1074) **Vacancy; how filled.**—Vacancies in the office of coroner are filled by appointment of the governor, and the person appointed holds office for the unexpired term, and until his successor is elected and qualified.

(Aikin's Digest, p. 97, § 5; Clay's Digest, p. 159, § 6.)

103. (1075) (924) (853) (937, 938) (802, 803) **Bond.**—Before entering on the duties of his office he must give bond, with surety, in the sum of two thousand dollars, payable and conditioned as prescribed by law, which bond is to be approved by the judge of probate and filed and recorded in his office.

(Aikin's Digest, p. 100, § 4.)

104. (1076) (925) (854) **Duty to hold inquests.**—It is the general duty of the coroner to hold inquests, and perform other duties as required by law.

(Aikin's Digest, p. 96, § 1; Clay's Digest, p. 158, § 1.) Power of coroner to employ physician and liability of county for fees or charges of said physician.—*Naftel v. Mont. Co.*, 127 Ala. 563 (29 So. 29).

105. (1077) (926) (855) (939) (804) **When to discharge duties of jailer.**—The coroner is keeper of the jail when the sheriff is imprisoned.

(Aikin's Digest, p. 96, § 2.)

106. (1078) (927) (856) (940) (805) **When to discharge duties of sheriff.**—He must discharge the duties of the sheriff:

1. When the office of sheriff is vacant, and until his successor is qualified.
2. When the sheriff is imprisoned.
3. In cases to which the sheriff is a party.
4. In such cases as he is directed by the judge of probate.

Original statutes providing for, passed Feb. 10, 1807.—*Toulmin's Digest*, pp. 717 et seq. (Aikin's Digest, p. 96, § 2; Clay's Digest, p. 159, § 2.)

107. (1079) (928) (857) (941) (806) **When sheriff interested, coroner acts.**—When the sheriff is interested in any cause or proceeding, such interest not appearing on the face thereof, the judge of probate may, on a proper showing by affidavit, direct the coroner to execute the summons, writ, or other process, in such cause or proceeding.

108. (1080) **Official acts valid though process directed to any sheriff, etc.**—The validity of his official acts cannot be questioned upon the ground that the process is directed to any sheriff, or that it does not show a necessity for the coroner to act, or other ground going to the form of the process.

(Aikin's Digest, p. 97, § 6.)

109. (1081) (931) (860) (944) (809) **Additional bond; failure to give vacates office; vacancy certified.**—When the coroner is required to discharge the duties of sheriff, the judge of probate may, in his discretion, require him to give an additional bond. If the coroner fails, for ten days after

such requisition, to give such additional bond, his office is vacated, and the judge of probate must certify the vacancy to the governor.

(Aikin's Digest, p. 96, § 3; Clay's Digest, p. 159, § 3.)

110. (1082) (932) (861) (946) (811) Liability for neglect of duty.—For the failure to perform any duty, or the improper or neglectful performance of such duty, or for any wrongful act committed under color of office by the coroner, or the special coroner, while discharging the duties of sheriff, such coroner and his sureties, and such special coroner, are liable to the same penalties, forfeitures and judgments given by law against sheriffs in like cases, to and upon the same proceedings and remedies as are given by law against sheriffs and their sureties.

(Aikin's Digest, p. 96, § 4; Clay's Digest, p. 159, § 4.)

111. (1083) (929) (858) (942) (807) Special coroner; when and by whom appointed.—The judge of probate has authority to appoint a special coroner—

1. When the coroner has not qualified or the office is vacant, and the emergency requires such officer.

2. When the coroner is absent from the county, having no deputy therein.

3. When the coroner is imprisoned.

4. When the sheriff and coroner are both parties, or both interested.

Original statutes providing for, passed Feb. 10, 1807.—Toulmin's Digest, pp. 717 et seq. (Clay's Digest, p. 159, § 7.)

112. (1084) (930) (859) (943, 944) (808, 809) Duties of special coroner.—A special coroner must discharge the duties of sheriff in such cases as the coroner is required, and also when the sheriff and coroner are imprisoned, and, on the direction of the judge of probate, when they are both parties, or both interested.

CROSS REFERENCES.

CORONER (Criminal Code)	7162-7175
CORPORATIONS (Civil Code)	3445-3661
CORPORATIONS, FOREIGN; RIGHTS AND DUTIES OF (Civil Code)	
	3638-3661
CORPORATIONS (Criminal Code)	6623-6630
COSTS AND FEES (Civil Code)	3662-3729
“ (Criminal Code)	6631-6670
CO-SURETIES (Civil Code)	5384-5409
CO-TENANTS; OFFENSES CONCERNING (Criminal Code)	7821
COTTON MILLS; INSPECTION OF (Criminal Code)	7212-7222

CHAPTER 10.

COTTON STATISTICS. 113-120.

SECTION.

113. Bureau of cotton statistics established.

114. Director; appointment, salary, and bond of.

115. Duties of director.

116. Ginners notify director.

SECTION.

117. Record of ginneries.

118. Field agents, appointment and duties of.

119. Expenses of bureau; how incurred, audited, and paid.

120. Laws repealed.

Aug. 13,
1907, p.
741, § 1.

113. Bureau of cotton statistics established.—There is created and established a bureau, in connection with the department of agriculture and industries, to be known as the Alabama bureau of cotton statistics.

1b.

114. Director; appointment, salary and bond of.—The bureau shall be under the management of a director, who shall be appointed by the governor, and shall hold office for a term of four years, unless sooner removed for cause, whose compensation shall be fifteen hundred dollars per annum. Said director shall give a bond in the sum of five thousand dollars, to be approved by the governor, and conditioned upon the full and faithful performance of his duties.

Aug. 13,
1907, p.
741, § 2.

115. Duties of director.—The director shall prepare and keep a list of all cotton ginners and public warehousemen in the state; shall provide all such with copies of this chapter and with suitable forms for making reports, and shall collect, compile and publish, as hereinafter prescribed, full statistics of cotton ginned and warehoused within the state, and such other cotton statistics as in his discretion may be necessary to show the annual production and distribution of cotton for the state. The dates to which the reports of cotton ginned shall relate shall be same as provided for by the national government. The director shall require said ginners and others to make reports to the Alabama bureau of cotton statistics of the quantity of cotton ginned and warehoused to the dates specified, to report in accordance with forms which may be furnished them by the said director.

1b., § 3.

116. Ginners notify director.—Every individual, firm or corporation, before engaging in the business of ginning seed cotton in the State of Alabama, shall notify the director of their intention to operate a ginnery during the current season, and requesting such blanks as herein provided for the making of reports.

117. Record of ginneries.—Every individual, firm, or corporation operating a ginnery in this state shall keep a book record of all cotton ginned, both on his own account and for others, the name of the person or persons for whom ginned, and the dates on which ginned. Aug. 13,
1907, p.
741, § 5.

118. Field agents, appointment and duties of.—The director of said bureau may appoint and commission such local field agents to assist in the collection of these reports as in his discretion may be deemed expedient, said agents to serve without compensation. Ib., § 7.

119. Expenses of bureau; how incurred, audited and paid.—The director may, with the consent and approval of the governor, incur all necessary expenses, including books, postage, stationery, office supplies, and clerical assistance, as may be necessary to defray the expenses of such bureau. Upon approval by the governor of vouchers of such expenses, the auditor shall issue a warrant on the treasurer for the amount so approved. Such warrant shall be paid by the treasurer, and for this purpose the sum of fifteen hundred dollars per annum, or so much thereof as may be necessary, is appropriated out of the money in the treasury not heretofore otherwise appropriated, for each of the fiscal years. Ib.

120. Laws repealed.—All laws and parts of laws inconsistent with the provisions of this chapter are hereby repealed. Aug. 13,
1907, p.
741, § 8.

CROSS REFERENCES.

COTTON (Civil Code)	3730-3734
COTTON (Criminal Code)	6671-6690
COTTON SEED (weight per bu. thirty-two lbs.) (Political Code)	2439
COTTONSEED MEAL (Political Code)	49- 50
COUNCIL OF MUNICIPALITIES (Political Code)	1192-1198
COUNSEL (Criminal Code)	7839-7841
COUNTERFEITING (Criminal Code)	6909-6919, 7077, 6882

COUNTIES.

Names of.

CHAPTER 11.

COUNTIES. 121-207.

- ARTICLE 1. NAMES OF. 121-123.
 ARTICLE 2. NEW COUNTIES. 124-127.
 ARTICLE 3. PROPERTY OF, BUILDINGS, COURTHOUSES, JAILS, ETC. 128-145.
 ARTICLE 4. CLAIMS, DEBTS, AND DEMANDS AGAINST COUNTY. 146-154.
 ARTICLE 5. COUNTY INDEBTEDNESS, LIMITED. 155.
 ARTICLE 6. LAWS OF COUNTY CODIFIED. 156.
 ARTICLE 7. ASSESSMENT MAPS, PLATS, OR ABSTRACT OF COUNTY BOUNDARIES. 157.
 ARTICLE 8. COUNTY BONDS; ELECTIONS AS TO ISSUE. 158-174.
 ARTICLE 9. COUNTY SITES AND COURTHOUSES, CHANGING AND LOCATING; ELECTION FOR. 175-207.

ARTICLE 1.

NAMES OF. 121-123.

SECTION.

121. Number and names of counties.
 122. Transfer of state funds from county treasury.

SECTION.

123. County a body corporate.

Assamend-
ed, Feb.
9, 1903.
p. 44, § 1.

121. (1396) (23) (23) (26) (25) Number and names of counties.—The state is divided into sixty-seven counties, called: Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, Dallas, DeKalb, Elmore, Escambia, Etowah, Fayette, Franklin, Geneva, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, Shelby, St. Clair, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Boundaries of original counties.—Toulmin's Digest, pp. 79-101. (Aikin's Digest, pp. 98, 99; Oct. 8, 1868, p. 216, as changed; Feb. 8, 1877, p. 232; Dec. 17, 1874, p. 179; Jan. 24, 1877, p. 69; Dec. 10, 1868, p. 397; Dec. 1, 1868, p. 446; Dec. 26, 1868, p. 446.) For the origin or date of acts creating counties, see annotations to § 26 of the Code of 1867.

Mar. 5,
1903,
p. 159, § 1.

122. Transfer of state funds from county treasury.—Whenever any money to which the state is entitled, and which should be paid into the state treasury, is erroneously or wrongfully paid into the county treasury to the credit of any fund therein, or money which, from any source, is in the county treasury and which belongs to the state, the court of county commissioners or board of revenue having the authority of such court in such county, shall draw a warrant in favor

of the person whose duty it is to collect and pay said money into the state treasury, and it shall be the duty of the person in whose favor the warrant is drawn to collect said money and pay it into the state treasury as in other cases.

123. (1397) (886) (815) (897) (763) **County a body corporate.**—Every county is a body corporate, with power to sue or be sued in any court of record.

Suits in name of state for use of county.—State for use of Fayette Co. v. Earnest, 123 Ala. 632 (26 So. 948); Parker v. State, 83 Ala. 269 (3 So. 552); Dover v. State, use Winston Co., 45 Ala. 244. To sue is an implied power of counties.—Meriwether v. Lowndes Co., 89 Ala. 362 (7 So. 198). Suit by county upon bond of bridge builder.—Ib. Courts judicially know that county jails are the property of the county.—Sands v. State, 80 Ala. 203. Claims against counties, allowance of, employment of attorney by county; locating county site.—Jack v. Moore, 66 Ala. 184. Indictment for burning county jail.—Lockett v. State, 63 Ala. 10; see Sands's case, 80 Ala. 203. Changing county site, contest of election as to.—Clarke v. Jack, 60 Ala. 271. Power to change county sites and courthouses.—Marengo Co. v. Matkin, 137 Ala. 155 (34 So. 171); 134 Ala. 275 (32 So. 669). Suit against county by clerk of circuit court for completing records.—Lowndes Co. v. Hunter, 49 Ala. 507. Courts take judicial notice of the names and corporate character of counties.—Reeves v. State, 20 Ala. 33; Overton v. State, 60 Ala. 73; Camp v. Marion Co., 91 Ala. 240 (8 So. 786); Trammell v. Chambers Co., 93 Ala. 388 (9 So. 815). Counties are public corporations or quasi corporations, not municipal, but mere government auxiliaries or agencies under legislative control.—Askew v. Hale Co., 54 Ala. 639; Chambers Co. v. Lee Co., 55 Ala. 534; Marengo Co. v. Coleman, 55 Ala. 605; James v. Conecuh Co., 79 Ala. 304. They are not strictly corporations but rather involuntary political or civil divisions of the state.—Commissioners v. Moore, 53 Ala. 25; Simpson v. Lauderdale Co., 56 Ala. 64; Covington Co. v. Kinney, 45 Ala. 176. County may be taxed with costs.—Dover v. State, 45 Ala. 244; State v. Parker, 83 Ala. 269. Can only be charged with such expenses and liabilities as are authorized by law.—Van Epps v. Commissioners, 25 Ala. 460; Mitchell v. Tallapoosa Co., 30 Ala. 130; Barbour Co. v. Brunson, 36 Ala. 362; Barbour Co. v. Horn, 48 Ala. 649; Posey v. Mobile, 50 Ala. 6; Simpson v. Lauderdale Co., 56 Ala. 64; Burgin v. Hawkins, 101 Ala. 326 (14 So. 771). As to matters within these limits it has the same power to contract as an individual.—Montgomery Co. v. Barber, 45 Ala. 237. There is no general liability on a county to answer for injuries received from defective roads and bridges; the liability is special and defined by statute.—Covington Co. v. Kinney, 45 Ala. 176; Barbour Co. v. Horn, 48 Ala. 566; s. c., 48 Ala. 649; Sims v. Butler Co., 49 Ala. 110; Askew v. Hale Co., 54 Ala. 639. Suits against county; presentation of claims, etc.—See citations to § 2472 (13). See, also, citations to § 146 (1416).

ARTICLE 2.

NEW COUNTIES. 124-127.

SECTION.

124. Share of debts to be paid by new counties.

125. How ascertained, and proceedings thereupon.

SECTION.

126. Assessment and collection of taxes in new counties.

127. Apportionment of taxes between old and new counties.

124. (1398) (25) (25) (28) **Share of debts to be paid by new counties.**—In all cases in the formation of new counties, the inhabitants cut off from any county are liable in law and

COUNTIES.

New Counties.

equity for the payment of their pro rata amount of the existing debt of the counties from which they have been severed.

(Feb. 9, 1867, p. 588, § 1.) Does not subject the new county to liability for any part of the contingent liabilities of the old.—*Askew v. Hale Co.*, 54 Ala. 639. An action lies against the new county for its pro rata share of the debt of the old, as ascertained by the commissioners' court.—*Chambers Co. v. Lee Co.*, 55 Ala. 534.

125. (1399) (26) (26) (29) How ascertained, and proceedings thereupon.—The court of county commissioners of any county from which a portion of its territory and inhabitants has been taken to form a new county, must ascertain, as nearly as practicable, the entire debt of their county at the time such portion of their county was taken.

(Feb. 9, 1867, p. 588, § 2.) Local law changing boundary lines between counties.—*Walker v. Griffith*, 60 Ala. 363.

Feb. 26,
1903, p.
87, § 1.

126. Assessment and collection of taxes in new counties.—Whenever any new county is formed, under the constitution of this state, all taxes assessed and unpaid on the property taken from old counties and embraced or situated in the new county, shall become the property of such new county; and the tax collector of said new county shall collect the taxes and account for same as now provided for by law.

ib. § 2.

127. Apportionment of taxes between old and new counties.—If at the time of the formation of any new county any taxes have been assessed against property situated partly in the new county and partly in the old county, or counties, from which said new county is made, the tax assessor of the old county or counties shall ascertain the pro rata share of the taxes due on that portion of the property situated in the new county, and furnish the tax collector of the new county with a statement of the amount due on the property, and the owner of the property shall then pay the amount to the tax collector of the new county.

ARTICLE 3.

PROPERTY OF; BUILDINGS, COURTHOUSES, JAILS, ETC. 128-145.

SECTION.

- 128. Their jurisdiction over navigable streams.
- 129. Deeds to others for use of county.
- 130. Commissioners have custody of property, and may sell.
- 131. County buildings erected and repaired by county.
- 132. Sheriff has charge of courthouse, etc.
- 133. Erection of county buildings.
- 134. Special tax for county buildings.
- 135. When courthouse cannot be occupied, courts and offices held elsewhere.
- 136. County jail; how constructed and arranged.

SECTION.

- 137. Tax for building or repairing jail; proposals for same.
- 138. Special tax for courthouse or jail; disposition of surplus.
- 139. Special tax; how levied.
- 140. Special appropriations for heating jail, etc.
- 141. Special term for making such appropriations.
- 142. Duty of court at such special term.
- 143. Duty of sheriff.
- 144. Examination of jail.
- 145. Counties and other municipal corporation's right to condemn for public use.

128. (1400) (27) (27) (25) (24) **Their jurisdiction over navigable streams.**—The jurisdiction over navigable streams, not included within the limits of any county, belongs to the county or counties whose jurisdiction extends to the margin thereof, and all process may be executed on such streams by officers of either county.

Jackson v. State, 90 Ala. 590 (8 So. 862).

129. (1401) (887) (816) (898) (764) **Deeds to others for use of county.**—All deeds, grants, or conveyances, made to any officer or person for the use and benefit of the county, vest in such county the title as fully as if made to such county by name.

130. (1402) (888) (817) (899) (765) **Commissioners have custody of property, and may sell.**—The court of county commissioners have control of all property belonging to the county, and may, by an order to be entered on its minutes, direct the disposal of any real property which can be lawfully disposed of, and direct the probate judge to make titles thereto; and a conveyance made by the probate judge in accordance with such order invests the grantee with the title of the county.

The sale of courthouse and grounds after county site is removed.—Sanford v. Hamner, 115 Ala. 406 (22 So. 117). Suit by county against treasurer and sureties on bond for loss of county fund.—Lewis v. Lee Co., 66 Ala. 490. Loss of fund through order of commissioners' court.—Ib.

131. (1403) (889) (818) (900) (766) **County buildings erected and repaired by county.**—The county buildings are

Property of; Buildings, Courthouse, Jails, Etc.

to be erected and kept in order and repair at the expense of the county, under the direction of the court of county commissioners, which court is authorized to make all necessary contracts for that purpose.

(Aikin's Digest, p. 99, § 4.) Duty to repair courthouse and jail.—*Jack v. Moore*, 66 Ala. 188. Courthouse, its location is under power and control of county commissioners, equity is without jurisdiction to control them.—*White v. Hewlett*, 143 Ala. 374 (42 So. 78). The constitutional convention no power to locate courthouses.—*Ex parte Birmingham and A. Co.*, 145 Ala. 514 (42 So. 118), *Tyson and Dowdell, JJ.*, dissenting.

132. (1404) (890) (819) (901) (767) Sheriff has charge of courthouse, etc.—The sheriff has charge of the courthouse, and must prevent trespasses, keep out intruders, and keep it and the ground attached thereto in order; reporting from time to time the repairs required to the court of county commissioners.

(Aikin's Digest, p. 99, § 6.)

133. (1405) (891) (820) (902) (768) Erection of county buildings.—The court of county commissioners of each county shall erect courthouses, jails, and hospitals, and other necessary county buildings; and such court has authority to levy a special tax for that purpose; provided, that in counties in which a circuit court or court of like jurisdiction has been authorized before the adoption of this Code, to be held in more than one place, the court of county commissioners or board of revenue may build courthouses in each place of holding court, but this section shall not affect in anywise any local law heretofore enacted.

(Aikin's Digest, p. 98, §§ 1, 2, 3.) Commissioners' court exercises a discretion not to be controlled by judicial tribunal, as to the location, erection, repairs, removal, or furnishing of county buildings.—*Matkin v. Marengo Co.*, 137 Ala. 155 (34 So. 171). There is a constitutional limitation (Const., § 215) upon the powers of commissioners' court to levy special taxes and issue bonds for public buildings.—*Ib.* Commissioners' court may move the courthouse site or county site from one part of the town or city in which it is located to another, but not to a point without the town or city fixed by the statute as the site.—*Matkin v. Marengo Co.*, 137 Ala. 155 (34 So. 171); *Ib.*, 134 Ala. 276 (32 So. 669). County jails are the property of the county under control of commissioners' court.—*Sands v. State*, 80 Ala. 203. Commissioners' court may levy taxes for county purposes to limited extent and for particular purposes within the limits fixed by constitution.—*Greene Co. v. Coleman*, 73 Ala. 553. The constitutional convention no power to locate courthouses.—*Ex parte Birmingham and A. Co.*, 145 Ala. 514 (42 So. 118), *Tyson and Dowdell, JJ.*, dissenting. Power to remove courthouse under local law.—*Hand v. Stapleton*, 145 Ala. 118 (39 So. 651); *s. c.*, 135 Ala. 156 (33 So. 689); 140 Ala. 555 (37 So. 362).

134. Special tax for county buildings.—The court of county commissioners, or other governing body of like jurisdiction, in any county in this state, shall levy and collect such special

Property of; Buildings, Courthouse, Jails, Etc.

taxes as it may deem necessary, not to exceed one-fourth of one per cent per annum, for the purpose of paying any debt or liability now existing against any county, incurred for the erection, construction, or maintenance of the necessary public buildings or bridges, or that may hereafter be created for the erection of public buildings, bridges, or roads, which taxes, so levied and collected, shall be applied exclusively to the purposes for which the same are so levied and collected.

Sep. 30,
1903, p.
307.

135. (1406) When courthouse cannot be occupied, courts held elsewhere.—When the courthouse of any county is damaged or destroyed, or is undergoing repair so as to interfere with the sittings of the courts or the occupancy of offices therein, such courts may sit, and such offices may be kept, at such other place in the city, town or village where such courts and offices are required by law to be held and kept, as may be provided by the court of county commissioners or board of revenue; or, in case of emergency, such place as may be provided by the judge of probate, sheriff, and clerk of the circuit court.

136. (1407) (892) (821) (903) (769) County jail; how constructed and arranged.—The county jail must be of sufficient size and strength to contain and keep securely the prisoners which may be confined therein; and must contain at least four apartments, properly ventilated, so as to secure the health of those confined therein; one for white men, one for white women; one for colored men, and one for colored women.

(Aikin's Digest, p. 98, § 1.) See citations to § 133.

137. (1408) (893) (822) (904) (770) Tax for building or repairing jail; proposals for same.—It is the duty of the court of county commissioners of each county, if there is not a sufficient jail in their county, to levy a county tax for the erection thereof, and cause proposals to be issued for building or repairing the same, within twelve months thereafter.

See citations to § 133.

138. (1409) (894) (823) Special tax for courthouse or jail; disposition of surplus.—Whenever it shall be deemed necessary by the court of county commissioners of any county in this state to pay any debt or liability now existing against any county, incurred for the erection, construction, or maintenance of the necessary public buildings or bridges, or that may hereafter be created for the erection of necessary public buildings, bridges, or roads, such court shall have the power and authority to levy and collect a special tax upon the tax-

Amended
by const.
1901, §215;
Oct. 10,
1903, p.
412, § 7.

Property of; Buildings, Courthouse, Jails, Etc.

able property of such county, not to exceed in one year one-fourth of one per cent, for such purposes; and such tax, when collected, shall be applied exclusively for the purposes for which the same was so levied and collected.

(Feb. 9, 1877, p. 68.) Power of county commissioners to build new courthouse issuing warrants upon the county treasury to pay therefor.—Tally v. Com'rs. Court of Jefferson Co., 39 So. 167. See citations to § 133.

139. (1410) (895) (824) Special tax; how levied.—In all cases in which the commissioners' court of any county is directed or empowered to levy a special tax for county purposes, such levy shall be made by the court itself, upon the assessment last made for state taxes.

(Feb. 9, 1877, p. 68.)

140. (1411) (896) Special appropriations for heating jail, etc.—It is the duty of the court to make special appropriations for heating the county jail in cold weather, for supplying it with wholesome water for drinking and bathing, to keep it in a cleanly condition and free from offensive odors, and for providing it with necessary water closets and dry earth, beds, bedding, and clothing.

(Dec. 6, 1880, p. 129.) Action does not lie to recover an amount paid for keeping up the fires. The claim must be presented and, if refused, enforced by mandamus.—Marengo Co. v. Lyles, 101 Ala. 423 (12-So. 412).

141. (1412) (897) Special term for making such appropriations.—If there be a necessity, and delay until a regular term of the court may be of injury to the health of the prisoners, it is the duty of the judge of probate to appoint a day for the meeting of the court, of which, if practicable, five days' notice must be given to each commissioner, which notice must be in writing, signed by the judge, and must be served by the sheriff.

142. (1413) (898) Duty of court at such special term.—Upon assembling, it is the duty of the court of county commissioners to make an appropriation of such an amount as is necessary for the purposes expressed in the second preceding section, and for the payment thereof must order the issue of a warrant payable to the sheriff, which must be paid by the county treasurer, on the presentment thereof, in preference and priority of all other claims.

143. (1414) (899) Duty of sheriff.—The appropriation having been made, and the sheriff having received payment thereof, it is his duty, so far as such appropriation will enable him, to keep the jail supplied with wholesome water for drinking and bathing, to keep drinking water accessible at all times

Claims, Debts, and Demands Against County.

to each prisoner, to keep it comfortably warm in cold weather, at all times cleanly and free from offensive odors, and provided with necessary water-closets, or dry earth, beds, bedding, and clothing for the use of prisoners.

144. (1415) (900) **Examination of jail.**—It is the duty of the judge of probate and clerk of the circuit court, once each week, without informing the sheriff or jailer of the time when such visit will be made, to visit and examine the condition of the jail, and make a memorandum in writing of such examination, and report under oath such examination to the grand jury.

145. **Counties and other municipal corporations right to condemn for public use.**—Counties and other municipal corporations may condemn lands for public building sites or additions thereto, or for enlargement of sites already owned, or for public roads or streets, or alleys, or for material for the construction of public roads, or streets, or for any other public use. w.o.c.

ARTICLE 4.

CLAIMS, DEBTS, AND DEMANDS AGAINST COUNTY. 146-154.

SECTION.

- 146. Auditing and registry of claims; how paid.
- 147. Claims must be itemized, proved, entered, and filed.
- 148. Claim by executor, etc.
- 149. Withdrawal of claim.
- 150. Claims barred if not presented.

SECTION.

- 151. When barred if records burnt.
- 152. Lights and fuel furnished courts.
- 153. Preferred claims.
- 154. County indebtedness may be funded.

146. (1416) (901) (826) (907) (773) **Auditing and registry of claims; how paid.**—The court of county commissioners must, in term time, audit all claims against their respective counties; and every claim, or such part thereof as is allowed, must be registered in a book kept for that purpose; and the judge of probate must give the claimant a warrant on the treasury for the amount so allowed.

(Aikin's Digest, p. 81, § 1; Clay's Digest, p. 142, § 1.) How claims against county are audited and allowed.—Burke v. Armstrong, 52 Ala. 48. Presentment and allowance of claims against county.—Briggs v. Coleman, 51 Ala. 562. Bonds issued by county.—Limestone Co. v. Rather, 48 Ala. 444. **A claim allowed at an unauthorized term creates no liability.**—Wightman v. Karsner, 50 Ala. 446. **Allowance is a ministerial, not a judicial, act.** Commissioners v. Moore, 53 Ala. 25; Jeffersonian Pub. Co. v. Hilliard, 105 Ala. 576 (17 So. 112). Only claims which are a charge on the general funds of the county need

Claims, Debts, and Demands Against County.

be audited.—Palmer v. Fitts, 51 Ala. 489; Chambers Co. v. Lee Co., 55 Ala. 534. **Claim for compensation for service on a coroner's jury must be audited and allowed.**—Hawkins v. Duncan, 103 Ala. 398 (15 So. 828). **Claim does not bear interest from date of allowance or registration.**—Vincent v. Gilmer, 51 Ala. 387. **Failure to allow or register a claim does not release the county.**—Randolph v. Hutchins, 46 Ala. 397. **The registry is not the order of allowance, but a mere memorandum which, as evidence, is insufficient to establish a claim.**—Speed v. Cocke, 57 Ala. 209. **The fact that three of the commissioners are interested in a claim does not make the order of allowance a nullity.**—Jeffersonian Pub. Co. v. Hilliard, 105 Ala. 576 (17 So. 112). **The duty of the judge of probate to issue a warrant after the claim has been audited and allowed, is ministerial, and may be compelled by mandamus.**—Commissioners v. Moore, 53 Ala. 25; Jack v. Moore, 66 Ala. 184; Jeffersonian Pub. Co. v. Hilliard, 105 Ala. 576 (17 So. 112). **The warrant imports a prima facie liability on the county.**—Commissioners v. Moore, 53 Ala. 25; Speed v. Cocke, 57 Ala. 209; Henry v. Cohen, 66 Ala. 382; Grayson v. Latham, 84 Ala. 546 (4 So. 200; 4 So. 866); Jeffersonian Pub. Co. v. Hilliard, 105 Ala. 576 (17 So. 112). **Legal and commercial characteristics of the warrant.**—Savage v. Mathews, 98 Ala. 535 (13 So. 328). **The county can only be charged with such expenses as are authorized by law, or which are necessarily incidental to the accomplishment of its purposes.**—See citations to § 123 (1397). **Actions against county; presentation and allowance of claims, etc.**—See citations to § 2472 (13). **Coroner cannot compel payment of his claims which have not been audited and allowed by the board of revenue.**—Miller v. State, 145 Ala. 494 (39 So. 658).

147. (1417) (902) (827) Claims must be itemized, proved, entered and filed.—No claim against the county shall be passed upon or allowed by the court of county commissioners unless it is itemized and sworn to by the claimant, or some person in his behalf having personal knowledge of the facts; and all claims passed upon and allowed, according to this section, must be entered in the order in which they were allowed, in a book kept for that purpose, and filed for future reference, within two weeks after the term at which such allowances were made; and the testimony required in the allowance of a claim must show whether or not any part thereof has been previously paid.

(Feb., 1876, p. 238; amended Jan. 31, 1877, p. 113, §§ 1, 2, 3.) **Claim for keeping record books, itemizing and presenting; sufficiency to support judgment by default.**—Washington Co. v. Porter, 128 Ala. 278 (29 So. 185). **Rejecting claim may be a waiver of presentment or itemizing; what is a sufficient itemization.**—Crenshaw Co. v. Fleming, 109 Ala. 554 (19 So. 906). **Damages for injury by falling in of bridge, county not liable unless bridge erected by contract with county.**—Roberts v. Cleburne Co., 116 Ala. 378 (22 So. 545). **Actions on coupons of bonds lost.**—Mobile Co. v. Sands, 127 Ala. 493 (29 So. 26). **In an action on a claim the complaint must show that the claim was itemized and verified.**—Schroeder v. Colbert Co., 66 Ala. 137.

148. (1418) (903) (828) Claim by executor, etc.—When a claim is filed by an executor, administrator, guardian, or trustee, it may be verified by the affidavit of such executor, administrator, guardian, or trustee, that he believes the claim to be just, due and unpaid.

Claims, Debts, and Demands Against County.

149. (1419) (904) (831) (908) (774) **Withdrawal of claim.**
—If a claim is rejected, or not allowed in full, the claimant may withdraw the same.

Allowance of claims when commissioners are interested therein.—Jeff. Co. v. Hilliard, 105 Ala. 576 (17 So. 112).

150. (1420) (905) (832) (909) (775) **Claims barred if not presented.**—All claims against counties must be presented for allowance within twelve months after the time they accrue, or become payable, or the same are barred, unless it be a claim due to a minor, or to a lunatic, who may present such claim within twelve months after the removal of such disability.

(Aikin's Digest, p. 81, §§ 2 and 3; Clay's Digest, p. 142, §§ 2 and 3.) Action against county on note for borrowed money.—Simpson v. Lauderdale Co., 56 Ala. 65. Claim cannot be proven by oral testimony of commissioner; presentment and allowance must be shown by record.—Crenshaw Co. v. Sikes, 113 Ala. 626 (21 So. 135); Barbour Co. v. Horn, 41 Ala. 114; Schroeder v. Colbert Co., 66 Ala. 137. Bonds issued by county to pay subscription to railroad.—Limestone Co. v. Rafter, 48 Ala. 433. Registry of claims not matter of record; remedy of holders of bonds against county; mandamus to issue bonds; county warrants must be authorized and court must pass upon registered claims.—Speed v. Cocke, 57 Ala. 209. Reviving claims against county once barred by non presentment; constitutionality of act.—Marengo Co. v. Coleman, 55 Ala. 605. County warrants not receivable for payment of taxes.—Burke v. Armstrong, 52 Ala. 48. Does not apply to the proportion of a debt of an old county due by a new one carved out of its territory.—Chambers Co. v. Lee Co., 55 Ala. 534. Claims existing at the time of the enactment of the statute must have been presented within twelve months after that time.—Michael v. Marengo Co., 52 Ala. 159.

151. (1421) (906) (833) **When barred if records burnt.**—Claims against a county in which the records have been destroyed by fire are barred if not registered in the proper office of the county within twelve months.

(Mar. 7, 1876, p. 239.) See citations to preceding sections.

152. (1422) (907) **Lights and fuel furnished courts.**—It is the duty of the sheriff to furnish the circuit, city, and chancery courts, and court of county commissioners, necessary lights and fuel during their sessions, and therefor the court of county commissioners must, upon the presentation of an account by him, properly verified, make to him reasonable compensation; and for the amount allowed, the judge of probate must draw a warrant on the treasury of the county.

(Jan. 17, 1879, p. 166.)

153. (1423) (908) **Preferred claims.**—The claims of grand and petit jurors for compensation, as shown by the certificates issued to them; the compensation of the members of the court of county commissioners, as shown by the certificates issued to them; and the accounts for necessary stationery furnished

County Indebtedness, Limited.

the county, are to be preferred in payment to all other claims, except special appropriations for the county jail provided for under sections 140 (1411) and 142 (1413), which have priority of all other claims; and for the payment thereof it is the duty of the county treasurer to set apart a sufficient fund from the moneys of the county. Claims for the support of the poor are to be next preferred; and thereafter a claim for the use of a building for a courthouse, the county not having a suitable building, is to be preferred; and thereafter the claim of the secretary of state for certified copies of field notes is to be preferred.

Money set apart for the payment of preferred claims cannot be used in the payment of any other claims even of the same class.—Allen v. Watts, 88 Ala. 497 (7 So. 190). Compensation of the coroner's jury must be audited, allowed, and paid in the same manner as other fees for inquest are paid.—Hawkins v. Duncan, 103 Ala. 398 (15 So. 828). Powers of commissioners' court with respect to providing for the poor.—Henry v. Cohen, 66 Ala. 382.

154. (1424) (909) County indebtedness may be funded.—The court of county commissioners, if they deem it necessary, may, without increasing the indebtedness of the county, settle, or compromise and fund, the debt of the county existing at the ratification of the constitution of 1875, and for the payment thereof may issue the bonds of the county, not running for a longer time than thirty years, nor bearing an annual interest exceeding six per cent; and for the payment of the principal and interest of such bonds, may levy annually a special tax on the value of the taxable property of the county, as assessed for state taxation, not exceeding one-fourth of one per cent, which must be collected as state and county taxes are collected, and which must be applied exclusively to the payment of the principal and interest of such bonds.

ARTICLE 5.

COUNTY INDEBTEDNESS, LIMITED. 155.

Feb 26,
1908, p.
90, § 5½;
const.
1901, § 224.

155. Limit of county's indebtedness.—No county shall become indebted in an amount, including present indebtedness, greater than three and one-half per cent of the assessed value of the property therein; provided, this limitation shall not affect any existing indebtedness in excess of such three and one-half per cent, which has already been created or authorized by existing laws to be created, prior to the adoption of the constitution of 1901; but any county which had, prior to the adoption of such constitution, already incurred a debt exceeding three and one-half per cent of the assessed value of the property therein, shall be authorized to incur an

Laws of County Codified; Maps and Plats of Boundaries.

indebtedness of one and one-half per cent of the assessed value of such property, in addition to the debt already existing. Nothing herein contained shall prevent any county from issuing bonds, or other obligation, to fund or refund any indebtedness lawfully created.

ARTICLE 6.

LAWS OF COUNTY CODIFIED. 156.

156. (1425) Local laws of county may be codified.—The court of county commissioners or board of revenue of any county may, in their discretion, once in every ten years, cause the laws of the county to be codified; such codification not to embrace any statute embodied in the Code of Alabama, nor any private act relating to persons or corporations, except town corporations and school districts. Every county officer, justice of the peace and notary public with magisterial powers shall, on his application, be furnished with a copy of such Code, the same to be delivered to his successor in office.

(Feb. 27, 1889, p. 110.)

ARTICLE 7.

ASSESSMENT MAPS, PLATS, OR ABSTRACT OF COUNTY BOUNDARIES. 157.

157. Assessment maps, plats or abstracts of county boundaries authorized.—The courts of county commissioners and boards of like jurisdiction shall have prepared county assessment maps or plats, showing the county boundary lines, main creeks, rivers, railroads, exempt lands, public roads, schoolhouses, and churches, and all lands which have escaped state and county taxation for the next preceding five years, in their respective counties, and which shall also show all subdivisions of lands made for the assessment of taxes or other purposes, and pay for the same out of the county treasury.

Feb. 28,
1901,
p. 158, § 1.

As amended,
Oct.
10, 1903,
p. 146, § 1

ARTICLE 8.

COUNTY BONDS; ELECTION AS TO ISSUE. 158-174.

SECTION.

- 158. Ordering election for issuing bonds for public improvements.
- 159. Second election not ordered within one year.
- 160. Notice of election; contents, posting, etc.
- 161. Ballot; form and character of.
- 162. Managers of election; appointment of.
- 163. Sheriff notifies managers, sends out boxes, etc.
- 164. Expenses of election.

SECTION.

- 165. Canvassing board.
- 166. Contests.
- 167. Record of returning board.
- 168. Issuance of bonds.
- 169. Value and quality of bonds.
- 170. Time limit; interest rate of bonds.
- 171. By whom signed.
- 172. Interest coupons.
- 173. Irregularity in proceedings does not invalidate bonds issued under it.
- 174. General election laws govern.

Feb 26,
1908,
p. 90, § 1.

158. Ordering election for issuing bonds for public improvements.—The courts of county commissioners and boards of revenue in the several counties may order elections to be held in their respective counties for deciding whether or not the bonds of the county shall be issued for the purpose of constructing, or paying debts created for constructing, public buildings, including schoolhouses and buildings, public roads, bridges, or such other purposes as are authorized by law.

1b.

159. Second election not ordered within one year.—No second election under this article shall be held within one year after an election theretofore held for the same purpose, unless it be to authorize the issue of bonds to rebuild public buildings, including schoolhouses and buildings or bridges destroyed since the issue of the order for holding of such first election.

1b., § 2.

160. Notice of election; contents, posting, etc.—Notice of such election shall be given for thirty days by publication in a newspaper published in the county in which the election is to be held once a week for three successive weeks, which notice shall state the purpose for which the election is to be held, and the time and place for holding the same, the amount of the proposed bond issue, and the maximum rate of interest proposed to be paid, and the time for which the bonds shall run, and the purpose for which the bonds are to be issued, and such notice shall be signed by the probate judge or chairman of the board of revenue of the county in which the election is to be held, and if no newspaper is published in the county, the notice must be posted in five public places in the county at least thirty days before the time of holding the election.

Validity of election held under statute.—Wilson v. Pike Co., 144 Ala. 397 (39 So. 370).

County Bonds; Election as to Issue.

161. Ballot; form and character of.—The ballot used at such election must be prepared by the probate judge and shall contain the words, “for _____ bond issue.” and “against _____ bond issue” (the character of the bond to be shown in the blank space), and the voter shall indicate his choice by placing a cross mark before or after the one or the other. Feb. 26, 1903, p. 90, § 2.

162. Managers of election; appointment of.—The probate judge, the circuit clerk and the sheriff of the counties in which elections are held under this article, within ten days after notice in writing to them of the calling of such election, shall appoint three managers and one returning officer to conduct the election in each beat or polling place in the county; and in the appointment of managers the said officers shall, if practicable, appoint one person who is known to be in favor of the issuance of the proposed bonds, and one person who is known to be opposed to the issuance of the proposed bonds, and said managers shall all reside in the beats, wards, or precincts where they are appointed to serve, and shall be qualified electors at said election. ib., § 4.

163. Sheriff notifies managers, sends out boxes, etc.—The sheriff shall notify the managers and returning officers of their appointments, and shall send out the boxes and ballots to the several beats or voting precincts in the county promptly. ib., § 5.

164. Expenses of election.—All expenses for holding such elections shall be paid out of the treasury of the county in which the same is held; and the managers, clerks, and returning officer shall be entitled to the same compensation as managers, clerks, and returning officers of the general election. ib., § 6.

165. Canvassing board.—The clerk of the circuit court, probate judge and sheriff of the county in which an election is held under this article shall constitute a board to canvass the returns and declare the results of such election, and they shall meet at the courthouse of the county in which the election is to be held on the Saturday following holding said election and canvass the returns and declare the result of said election; and in case either of the three should be absent, the two present shall act. ib., § 7.

166. Contests.—A contest of the election held under this article in any county may be made by any qualified elector of the county by executing a bond, with two sufficient sureties, to be approved by the judge of probate of the county for the payment of the costs of the contest. Notice of the contest shall be served on the circuit solicitor of the county in which the contest is instituted. Upon the execution of a bond for costs Feb. 26, 1903, p. 90, § 8.

County Bonds; Election as to Issue.

signed by three or more qualified electors of such county, to be approved by the judge of probate of the county, said solicitor shall respond in the name of the county, and the county shall be contestee. Both in the lower and appellate courts said contest shall be a preferred case. All provisions and incidents of the election law of this state, including a contest, which pertain to the election of judges of probate, shall be observed at the election herein ordered, as far as the same are applicable and not out of harmony with the provisions of this article.

Feb 26.
1903, p.
90, § 9.

167. Record of returning board.—The record of the result of the election held hereunder, as returned by the board of canvassers, shall be recorded in the minutes of the board of revenue or court of county commissioners of the county in which the same is held, and when so recorded the record shall be conclusive evidence of the matters therein stated, and of the validity of such election, unless contested, as provided in the preceding section.

Ib., § 10.

168. Issuance of bonds.—If at an election held under and according to the provisions of this article, a majority of the qualified electors of the county voting at the election vote "For bond issue," the court of county commissioners or board of revenue of the county in which such election is held shall issue bonds of such county in the amount and for the purposes mentioned in the notice of said election.

Ib., § 11.

169. Value and quality of bonds.—All bonds and interest coupons attached to the same issued under the authority of this article shall be exempt from state, county and municipal taxation, and the same shall have all the properties and protections of commercial paper.

Ib., § 12.

170. Time limit; interest rate of bonds.—The denominations of the bonds, the time for which the same shall run, the place of payment, and the rate of interest to be paid on the same, shall be fixed by the court of county commissioners or board of revenue issuing the same, but no bonds issued under the provisions of this article shall bear a greater rate of interest than five per cent per annum, and the same shall not be sold for less than face value.

Ib., § 13.

171. By whom signed.—All bonds issued under the authority of this article shall be signed by the probate judge and countersigned by the treasurer of the county in which the same are issued, and the official seal of the probate court shall be impressed upon or affixed to the same.

Ib., § 14.

172. Interest coupons.—All bonds so issued shall have attached to the same interest coupons, which shall be signed by the probate judge and the treasurer of the county issuing the

County Sites and Courthouses, Changing and Locating; Election for same, but the signatures of the probate judge and treasurer may be printed or lithographed in facsimile upon said coupons.

173. Irregularity in proceedings does not invalidate bonds issued under it.—No irregularity in the proceedings to authorize the issue of bonds under this article, nor the omission or neglect of any officer charged with executing any of the duties imposed by this article shall affect the validity of any bonds issued under the authority hereby conferred. Feb. 26,
1903, p.
90, § 15.

174. General election laws govern.—Where no provisions ^{Ib.} are otherwise made herein, the general election laws of the state then in existence with regard to all notice, qualification of voters, official acts and things to be done in connection with ordering and holding elections, making returns, canvassing, and certifying the same, shall govern in all respects; and all penalties fixed for wrongful acts and violations of the general election laws of the state shall apply to similar acts and violations in all elections held under this article.

ARTICLE 9.

COUNTY SITES AND COURTHOUSES, CHANGING AND LOCATING; ELECTION FOR. 175-207.

SECTION.

- 175. Petition of qualified electors for election to change county seat.
- 176. Governor appoints commissioners.
- 177. Board of commissioners of county seat election designated.
- 178. Oath of commissioners.
- 179. Commission issues.
- 180. Filling vacancies in office.
- 181. Removal of commissioners and appointment of successors.
- 182. Fixing time for holding election.
- 183. Notice of election; contents and publication of.
- 184. Form of order.
- 185. Election managers and officers; how appointed.
- 186. Commissioners notify managers and officers of election.
- 187. Officers of election meet at polling places.
- 188. Officers failing to attend, appointment of others.
- 189. Oaths of election managers.
- 190. Opening polls.
- 191. Form of ballot.

SECTION.

- 192. Numbering ballots; poll list.
- 193. Registered voters; certified list of.
- 194. Statement of vote and returning certificate.
- 195. Receiving returns and counting votes by board; time, place.
- 196. Returns destroyed, withheld or delayed.
- 197. Declaration of vote.
- 198. Returning officers; powers, etc.
- 199. Compensation of returning officer.
- 200. Majority of board of commissioners.
- 201. County seat declared.
- 202. Cite and buildings to be acquired for new county site.
- 203. Officers and records removed to new site.
- 204. Courts of record; where held.
- 205. Offices and courts held at county seat until buildings prepared.
- 206. Discretion of governor as to petition.
- 207. Second election not held within four years after first.

175. Petition of qualified electors for election to change county seat.—A majority of the qualified electors of any

County Sites and Courthouses, Changing and Locating; Election for.

Mar. 3,
1903, p.
117, § 1,
Const.
1901, § 41.

county, except those counties that have built new courthouses in the past twenty years, may petition the governor in writing, praying that an election be held in such county for the purpose of determining whether the county seat or site shall be removed from the city, town or village where it is then located, to another designated city, town or village in such county.

This statute was enacted as a general law and required no notice.—State v. Porter, 145 Ala. 541 (40 So. 144).

Mar. 3,
1903,
p. 117, § 1.

176. Governor appoints commissioners.—The governor shall, within thirty days after the filing of the petition with him, appoint three commissioners for such election, who shall be qualified electors of such county, and shall not hold any state or county office; and thereupon the governor shall cause them to be notified of their appointment.

Ib., § 2.

177. Board of commissioners of county seat election designated.—The persons so appointed shall be known as the "Board of Commissioners of County Seat Election," and the governor shall designate one of them as the chairman of such board.

Ib., § 2.

178.—Oath of commissioners.—Each of the persons appointed must, within fifteen days after his appointment, take and file in the office of the secretary of state an oath to support the constitution of the United States and the constitution of Alabama, and to honesty, faithfully, and impartially perform the duties required of him as commissioner of county seat election.

Ib.

179. Commission issues.—A commission shall issue in the usual form, accompanied by a copy of said petition certified to by the secretary of state, on the payment of the usual fees therefor for the use of the state. The secretary of state shall file and record said petition in his office.

Ib.

180. Filling vacancies in office.—If any person appointed commissioner shall fail or refuse to qualify; or if any vacancy shall occur in the membership of said board at any time during its existence, the governor shall fill such vacancy and the appointee shall qualify as provided in the preceding sections.

Ib., § 3.

181. Removal of commissioners and appointment of successors.—If at any time it shall be made to appear to the governor that any commissioner has willfully neglected to discharge in good faith any duty resting upon him under the provisions of this article or is physically unable or otherwise incompetent to properly perform such duties, or is seeking in any manner to prevent or defeat a full and fair expression of the wishes of the qualified electors of the county on the question of such removal of the county seat, the governor

County Sites and Courthouses, Changing and Locating; Election for. must remove such commissioner and appoint another in his stead, who shall qualify as provided in the preceding sections.

182. Fixing time for holding election.—Within thirty days after their appointment and qualification, said board of commissioners shall, in writing, order and fix the time for the holding of an election in the several precincts or wards of the county, which date for holding such election shall not be less than sixty days nor more than one hundred and twenty days from the time of making said order. Mar. 3,
1908, p.
117, § 4.

183. Notice of election; contents and publication of.—Said commissioners shall give notice thereof by publishing a copy of said order for four consecutive weeks in a newspaper published in the county, or, if there be no newspaper published in the county, by posting a copy of said order at the courthouse and at five other public places in the county, such publication to begin or such notices to be posted within fifteen days from the time of making said order. Ib., § 4.

184. Form of order.—The order may be substantially as follows: Order for county seat election. The State of Alabama, _____ county. A majority of the qualified electors of this county having petitioned the governor praying that an election be held in this county on the question of removing the county seat from _____ to _____, in this county; and the governor having appointed the undersigned as the board of commissioners of county seat election, as provided by law: It is hereby ordered that an election be held at the usual voting places in this county, by the qualified electors thereof, on Tuesday, the _____ day of _____, 19—, between the hours of 9 a. m. and 5 p. m., on the question of such removal, at which election the elector who desires that the county site shall remain at _____ shall have written or printed on his ballot the words: "Against removal;" and the elector who desires that the county seat shall be removed to _____ shall have written or printed on his ballot the words: "For removal to _____." Done this, the _____ day of _____, 19— (Signed _____, the board of commissioners of county seat election. Ib., § 4.

185. Election managers and officers; how appointed.—Between ten and thirty days prior to the day appointed for such election the said board of commissioners shall appoint three inspectors, two clerks and one returning officer to hold and conduct said election for each of the voting places in the county. One of said inspectors and one of said clerks for each voting place shall be appointed as recommended for that purpose by qualified electors favoring such removal, and one of said inspectors and one of said clerks for each voting place Ib., § 5.

County Sites and Courthouses, Changing and Locating; Election for.

shall be appointed as recommended for that purpose by qualified electors opposing removal, and the third inspector and returning officer for each voting place shall be selected by the board of commissioners. But if there shall be a bona fide organization of electors favoring such removal, or such organization opposing such removal, one or both, the chairman or head of such organization shall have the superior right to thus recommend persons for appointment as inspector and clerk as herein provided, and the persons recommended by each chairman, respectively, or by either of them, must be appointed; each side shall have full and fair representation in the conduct of said election.

Mar. 3,
1903, p.
117, § 5.

186. Commissioners notify managers and officers of election.—Said board of commissioners shall notify or cause to be notified the persons so appointed as inspectors, clerks and returning officer, for each voting place in the county prior to the day appointed for the election.

Ib., § 6.

187. Officers of elections meet at polling places.—The inspectors, clerks and returning officers thus appointed must meet at the place of holding elections in the several precincts or wards for which they are appointed, by 9 o'clock a. m. of the day of the election, and before 10 o'clock open the several polling places.

Ib.

188. Officers failing to attend, appointment of others.—On the failure of any inspector or clerk to attend at the hour of 9, the inspector or inspectors present shall complete the number by appointing a qualified elector in the place of each inspector or clerk so absent, every such appointment to be so made that each side shall have representation in the person of at least one inspector and one clerk, and to that end the inspector or inspectors making such appointments shall observe the recommendations of a majority of the electors present favoring the side for which such absent inspector or clerk was appointed, if they shall make such recommendation. If no inspector is present at the hour of 9 as aforesaid, then a majority of the qualified electors then present who favor removal shall select one inspector, and a majority of the qualified electors then present who oppose removal shall select one inspector, and the two inspectors thus selected shall select a third inspector. If the returning officer is absent the inspectors shall appoint a qualified elector to serve as returning officer.

Ib., § 7.

189. Oaths of election managers.—Before entering upon their duties the inspectors, clerks, and returning officer must take an oath to perform their duties pertaining to said election honestly, faithfully, and impartially and according to

County Sites and Courthouses, Changing and Locating; Election for law, which oath may be administered by any officer authorized by law to administer oaths or by any one of the inspectors.

190. Opening polls.—The inspectors, before they commence receiving ballots, must cause it to be proclaimed aloud at the place of voting that the election is opened. Mar. 3, 1903, p. 117, § 8.

191. Form of ballot.—Each qualified elector shall be entitled to cast one ballot, and no more, which ballot must be a paper ticket on which must be written or printed the words, "For removal to ———," or the words, "Against removal." as the elector may desire to vote. No official ballot shall be required nor shall any ballot be rejected for the want of form if the inspectors are able to determine therefrom how the elector intended to vote. Ib., § 9.

192. Numbering ballots; poll list.—The name of each elector whose ballot has been received must immediately be taken down by each clerk on separate lists, which shall be known as the poll list; and the number of the order in which each elector votes must at the same time be entered by each clerk against his name, the first elector voting being numbered one, the second number two, and so on to the last elector voting, and one of the inspectors shall correctly number each ballot with the number to correspond with the number opposite the elector's name on the poll list. Ib., § 10.

193. Registered voters; certified list of.—The judge of probate must furnish to the board of commissioners provided for in this article a duly certified list of the registered voters in each precinct or ward in the county on request of said commissioners or either of them, and the payment of one cent for each name contained in such list, to be paid out of the county treasury on order of the commissioners; which said lists the commissioners aforesaid shall cause to be placed in the hands of the inspectors of the respective precincts or wards or other voting places prior to the day of said election, and no person shall be entitled to vote in said election whose name does not appear as that of a duly registered elector on said list, unless he shall produce to the inspectors a certificate of registration showing his right to vote therein; and no person liable to poll tax shall vote in said election unless he shall produce to the inspectors the receipt of the tax collector showing that he has paid such poll tax as required by law, or shall state under oath to be administered by one of the inspectors that he has paid, on or before the first day of February next preceding the election at which he offers to vote, all poll taxes due from him for the year 1901 and for each subsequent year, which statement so made under oath shall be sufficient evidence of the payment of poll taxes. Ib., § 11.

County Sites and Courthouses, Changing and Locating; Election for.

Mar. 8,
1908, p.
117, § 12.

194. Statement of vote and returning certificate.—Immediately on the closing of the polls, the inspectors must count the ballots and certify the number of votes cast “For removal to — — —” and the number of votes cast “Against removal,” and certify on one of the poll lists that such poll list is the poll list of the election precinct or voting place at which they were inspectors and the day and year on which said election was held, and such statements of the votes and poll lists, together with the ballots cast in said election, they shall securely seal up in an envelope or other wrapper or receptacle and label the same so as to show the precinct or ward in which said ballots were cast, and deliver the same to the returning officer, and said returning officer must, within twenty-four hours thereafter, deliver the same to the said board of commissioners, at the courthouse of the county.

Ib., § 13.

195. Receiving returns and counting votes by board; time, place.—The board of commissioners shall meet at the courthouse of the county on the next day after the day on which such election is held, and there remain and receive the returns from the several returning officers; and on the second day after the day on which such election is held, the commissioners shall meet at the courthouse at 12 o'clock meridian, and in the presence of such persons as may choose to attend, the said board shall make a correct statement from the returns of the several precincts and wards of the county of the whole number of votes cast “For removal to — — —” and the whole number of votes cast “Against removal,” and shall then and there make in writing a public declaration of the result of said election.

Ib.

196. Returns destroyed, withheld or delayed.—If it shall be made to appear to said board that the returns from any precinct or ward are destroyed or withheld, or the delivery thereof purposely delayed or prevented, said board shall take such steps as in their judgment may be necessary in order to secure correct returns thereof, and to that end they may examine witnesses under oath, which oath may be administered by one of the commissioners touching the number of votes cast in such precinct “For removal to — — —” and the number cast “Against removal,” and such votes shall be included in their statement. Said board shall reject any ballots shown to be illegal and shall count all legal ballots.

Ib., § 14.

197. Declaration of vote.—The board of commissioners, upon the conclusion of canvassing said returns, shall certify in writing the result of said election, a copy of which shall be filed and recorded in the office of the judge of probate of the county and another copy published by at least one insertion

County Sites and Courthouses, Changing and Locating; Election for. in a newspaper published in the county, if there be such newspaper.

198. Returning officer; powers, etc.—The returning officer for each precinct or ward is clothed with all the power and charged with all the duties of a peace officer under the laws of the state, while engaged in the discharge of his duties as such returning officer. Mar. 3,
1908, p.
117, § 15.

199. Compensation of returning officer.—Each returning officer, manager, or inspector shall receive as compensation for his services the same pay as is paid like officers of general elections, which shall be paid by the county treasurer upon the order of said board of commissioners. Ib.
(r.c.c.)

200. Majority of board of commissioners.—Any duty herein required to be performed by the said board of commissioners of county seat election, may be performed by a majority of them; and a majority of the inspectors of election shall govern in the determination of all questions coming before them as such inspectors. Ib., § 16.

201. County seat declared.—If upon canvass of the returns of said election a majority of all the legal votes cast were in favor of the removal of the county seat, then the city, town, or village thus elected shall thereafter be the county seat of the county. Mar. 2,
1907,
p. 188, § 1.

202. Site and buildings to be acquired for new county site. Ib.
—The court of county commissioners shall then procure by donation or by purchase, at the expense of the county, suitable lots or parcels of land in such city, town, or village, taking the fee simple title thereto to the county, and shall cause to be erected, at the expense of the county, a suitable courthouse and a suitable jail on said lots for the county as soon as practicable.

203. Offices and records removed to new site.—When said courthouse shall be completed and ready for occupancy, the said county officers shall remove their offices and the records thereof to such offices or rooms in the new courthouse as may be designated for them respectively by the court of county commissioners; and the sheriff, upon completion of the jail, shall remove and keep therein any prisoners in his custody. Ib.

204. Courts of record, where held.—Prior to the removal last referred to, all courts of record for the county shall be held at the original courthouse thereof. But after such removal, all courts of record for the county shall be held at the new county seat, and if need be, the court of commissioners must provide suitable buildings in which to hold said courts, pending the erection and completion of the courthouse. Ib.

Mar. 2,
1907, p.
188, § 1.

205. Offices and courts held at county seat until buildings prepared.—All county officials who are required to hold their offices at the county seats shall have their offices and all courts held for such county seats shall be held at the old county seat until the suitable buildings and offices can be provided by the commissioners' court at the new county seat, not to exceed twelve months from the date of said election.

Mar. 3,
1903, p.
117, § 19

206. Discretion of governor as to petition.—The governor shall not entertain any petition hereunder which he may have reason to believe is not made in good faith by persons desiring a removal of the county seat. If two or more bona fide petitions with respect to the proposed removal of the county seat of a county to two or more different points in the county shall be pending before the governor for the appointment of commissioners, the governor shall favor the proceeding which, in his judgment, is best calculated to result in a permanent location of the county seat.

207. Second election not held within four years after first.—When one election has been held under this article, a subsequent election as to the same county shall not be held within four years thereafter.

CROSS REFERENCES.

COUNTY BOARD OF EDUCATION (Political Code)	1712-1715
COUNTY COMMISSIONERS (Civil Code)	3306-3322
COUNTY COURTS (Criminal Code)	6696-6732, 6655, 6656
COUNTY DEBTS AND CLAIMS (Political Code)	146- 155
COUNTY PROPERTY (Criminal Code)	6691
COUNTY SUPERINTENDENT (Political Code)	1702-1710
COUNTY SURVEYORS (Civil Code)	6016-6027

CHAPTER 12.

COUNTY TREASURER. 208-218.

SECTION.

- 208. Election and term of office.
- 209. Vacancy; how filled.
- 210. Bond.
- 211. Duties.
- 212. When claim paid, though prior claims outstanding.
- 213. Books.
- 214. Annual account recorded.

SECTION.

- 215. Judge of probate to appoint an expert accountant to examine books and vouchers.
- 216. Proceedings on death or termination of office.
- 217. Compensation.
- 218. Forms of accounts.

208. (1426) (910) (841) (922) (787) Election and term of office.—A county treasurer for each county is elected by the qualified voters thereof, who holds office for four years from the first Monday after the second Tuesday in January next after his election, and until his successor is elected and qualified. As amended, Oct. 9, 1903, p. 438, § 27.

(Aikin's Digest, p. 100, § 5; pp. 423-426; Clay's Digest, pp. 577-580, § 11; Mar. 6, 1876, p. 103, § 6; Feb. 21, 1893, p. 1091, § 4.)

209. (1427) (913) Vacancy, how filled.—Vacancies in the office of county treasurer are filled by appointment of the court of county commissioners, and the person appointed holds office for the unexpired term and until his successor is elected and qualified.

(Aikin's Digest, p. 424, § 6; Clay's Digest, p. 579, § 18.)

210. (1428) (911) (842) (923) (788) Bond.—Before entering (r.e.c.) on the duties of his office he must give bond, with at least two good and sufficient sureties, in double the estimated amount of the annual revenue of the county, to be determined by the court of county commissioners, payable to the county and conditioned as prescribed by law, which bond is to be approved by the judge of probate and filed and recorded in his office; and the court of county commissioners shall require an additional bond whenever any special fund is to be received by the treasurer, and pay the premium therefor.

(Aikin's Digest, p. 100, § 6; p. 424, § 5; Clay's Digest, p. 577, § 11.) County treasurer, duty to individual holding claim against county; rights and duties as to fine and forfeiture fund; liability of sureties to county for fund; payment of certificates without registration, enforcing lien against bond of county treasurer.—Jackson Co. v. Derrick, 117 Ala. 348 (23 So. 193). Not necessary for the bond to recite that the principal is treasurer, or elected as such.—Wilson v. Cantrell, 19 Ala. 642. The sureties are bound for the performance of those acts which the law requires the treasurer to perform.—Townsend v. Everett, 4 Ala. 607. And for money in the hands of the treasurer at the time of the execution of the bond.—Townsend v. Everett, 4 Ala. 607;

Moore v. Madison Co., 38 Ala. 670. And for any default as to money collected on account of the subscription of the county to stock in a railroad.—Lewis v. Lee Co., 66 Ala. 480; s. c., 73 Ala. 148. But not for money collected by the treasurer and delivered by him to the probate judge to be exchanged, under the order of commissioners' court.—Lewis v. Lee Co., 66 Ala. 480. Nor for failing to pay sheriff's fees for summoning witnesses for the defendant in a criminal case who is insolvent.—Cohen v. Coleman, 71 Ala. 496. Nor for failure to pay clerk's fees for issuing subpoenas for defendants' witnesses.—Burgin v. Hawkins, 101 Ala. 326 (14 So. 771). Nor for failure to pay a warrant for the support of a pauper, when the claim had not been audited and filed.—Boothe v. King, 71 Ala. 479. Nor for defalcation as to certain funds to cover which the legislature had ordered a new bond to be given, although such bond had not been made.—Morrow v. Wood, 56 Ala. 1. If a county treasurer receives money as taxes from the collector, he and his sureties are estopped to deny that the money belonged to the county.—Coleman v. Pike Co., 83 Ala. 326 (3 So. 755).

211. (1429) (915) (845) (926) (791) Duties.—It is the duty of the county treasurer—

1. To receive and keep the money of the county, and disburse the same according to law.

Subdivision 1.—Treasurer is the mere custodian of funds and must disburse them according to law.—Edmondson v. DeKalb Co., 51 Ala. 103. He is the proper custodian of funds raised for the payment of a subscription by the county to stock in a railroad.—Barnes v. Hudman, 57 Ala. 504. The allowance of a claim in excess of the authority of the commissioners' court is void, and the treasurer may refuse to pay it.—Commissioners v. Moore, 53 Ala. 125; Speed v. Cocke, 57 Ala. 209; Boothe v. King, 71 Ala. 497; Grayson v. Latham, 84 Ala. 546 (4 So. 200; 4 So. 866). Suit lies against treasurer and sureties when he has proper funds and refuses to pay claim.—Arrington v. Van Houton, 44 Ala. 284; Randolph Co. v. Hutchins, 46 Ala. 397; Briggs v. Coleman, 51 Ala. 561; Caldwell v. Guinn, 54 Ala. 64; Speed v. Cocke, 57 Ala. 209; Caldwell v. Dunklin, 65 Ala. 461; Grayson v. Latham, 84 Ala. 546 (4 So. 200; 4 So. 866). See, also, citations to § 2472 (13).

2. To pay out of the general fund of the county, on presentation and without being audited and allowed by the court of county commissioners, all grand and petit juror certificates.

Subdivision 2.—Purchase of certificate by a deputy, who is acting treasurer; when regarded as a payment.—Allen v. McCreary, 101 Ala. 514 (14 So. 320).

3. To keep in well bound books separate registers of claims presented against the general fund, the special fund if any, and the fine and forfeiture fund.

4. To number and register, in the order in which they are presented, all claims against the general fund which have been audited and allowed by the court of county commissioners as claims against such fund, such register showing the number of the claim, the date presented for registration, to whom allowed, when allowed, the character of the claim and the amount thereof; and, except as otherwise provided by law, to pay the same in the order of their registration. He must

in like manner number, register, and pay all claims allowed against a fund raised for a special purpose.

Coroner's fees must be presented, audited, and allowed.—*Miller v. Paris*, 145 Ala. 494 (39 So. 658).

5. To number and register, in the order in which they are presented, all claims against the fine and forfeiture fund which have been duly authenticated as claims against such fund, and without being audited and allowed by the court of county commissioners, such register showing the number of the claim, the date presented for registration, to whom payable, when it accrued, the character of the claim and the amount thereof; and to pay the registered claims of state witnesses in the order of their registration, and whenever there is a surplus of such fund, over and above the sum required to pay the registered claims of state witnesses, he must apply such surplus to the payment of the claims of officers of court in the order of their registration.

Fine and forfeiture fund belongs to the state and the commissioners' court has no control over it.—*Palmer v. Fitta*, 51 Ala. 489; *State v. Stone*, 69 Ala. 206; *State v. Coleman*, 73 Ala. 550; *Herr v. Seymour*, 76 Ala. 270; *Bilbro v. Drakeford*, 78 Ala. 318; *Sessions v. Boykin*, 78 Ala. 328; *Brown v. Parris*, 93 Ala. 314 (9 So. 603); *Harold v. Herrington*, 95 Ala. 395 (11 So. 131); *Burgin v. Hawkins*, 101 Ala. 326 (14 So. 771); *Alston v. Yerby*, 108 Ala. 480 (18 So. 559). **Witness certificates in criminal cases; applies only to state witnesses.**—*Briggs v. Coleman*, 51 Ala. 561; *Cohen v. Coleman*, 71 Ala. 496; *Burgin v. Hawkins*, 101 Ala. 326 (14 So. 771). **Authentication by clerk.**—*Herr v. Seymour*, 76 Ala. 270. **Proceeds of hire of county convicts belong to the fine and forfeiture fund.**—*State v. Coleman*, 73 Ala. 550.

6. Upon the registration of a claim he must indorse thereon the number and date of registration and sign his name thereto.

7. When a claim is received in payment of a debt due the county, he must give a receipt therefor, showing a description of the claim and the name of the person and character of the debt on whose account the claim was received.

8. On the payment of any claim he must take a receipt therefor; and when a claim of any character is paid or received by him, he must cancel the same by defacing or mutilating it so as to show that it is of no further value, and, if registered, write upon the register against the claim the word "paid" and the date of such payment.

9. To keep a correct account of the receipts and disbursements of all money received by him for the county, according to the forms herein prescribed, charging himself with all moneys so received, of whom, on what account, and the amount, and crediting himself with all payments, stating the

number and character of the claim, in whose favor, and the amount.

10. To examine the dockets of the circuit and city courts, and sheriff semi-annually; to demand and receive all moneys due to the county, and to institute proceedings against defaulters.

11. To submit to the court of county commissioners, at the first term in each year, the register of claims; his account for the year balanced; vouchers for the payments; an estimate of the indebtedness of the county for the coming year, and the means of providing for the same.

12. To make reports, and give information to the court of county commissioners, when required, respecting all matters relating to the finances of the county.

13. To furnish the probate judge, in January of every year, a verified statement of all moneys received by him for the county during the preceding year, and of all claims received by him in lieu of money, which are receivable in payment of county taxes, which statement must designate the time and person from whom such moneys or claims were received.

14. To keep his office within one mile of the courthouse of the county.

15. To perform such other duties as are or may be by law required of him.

(Aikin's Digest, p. 82, § 5; pp. 424-426, §§ 7, 9, 10, 11, 14, 15; Clay's Digest, p. 578, §§ 12-16; Mar. 26, 1873, p. 110; [sub. 5] Feb. 1, 1876, p. 240; [sub. 13] Dec. 17, 1873, p. 38, § 5; [sub. 14] Jan. 23, 1860, p. 50.) County treasurer, duties to individual holding claim against county; rights and duties as to fine and forfeiture fund; liability of sureties to county for fund; payment of certificates without registration; enforcing lien against bond of county treasurer.—*Jackson Co. v. Derrick*, 117 Ala. 348 (23 So. 193). Duty as to registration of witness' certificates compelled thereto by mandamus.—*Gray v. Abbott*, 130 Ala. 322 (30 So. 346). Official books of county treasurer, summary remedy against defaulting tax collector.—*Dudley v. Chilton Co.*, 66 Ala. 594. Warrants of county treasurer for payment of taxes.—*Burke v. Armstrong*, 52 Ala. 48. Actions against treasurer for interest on claims against county; interest on claim audited and allowance of.—*Vincent v. Gilmer*, 51 Ala. 387. County treasurer's right to commission on taxes collected to pay interest on bonds.—*Barbour Co. v. Clark*, 80 Ala. 417. Fine and forfeiture fund, witness certificates and officers' fees; charges against Mobile county under special statute.—*Stone v. Ames*, 91 Ala. 644 (8 So. 421). Committee to examine county treasurer's books.—*Lewis v. Lee Co.*, 73 Ala. 154. Report of committee as evidence against treasurer and liability of county treasurer for state certificates.—*Lewis v. Lee Co.*, 73 Ala. 154. Action on county treasurer's bond, who proper party; money collected by county treasurer and lost without fault.—*Lewis v. Lee Co.*, 66 Ala. 480. Garnishment does not lie against the treasurer to subject funds in his hands to the payment of a judgment against the county.—*Edmondson v. DeKalb Co.*, 51 Ala. 103.

212. (1430) When claim paid though prior claims outstanding.—The county treasurer must not refuse the payment of any lawful and valid claim for the reason that claims of prior regis-

tration have not been paid, if there is money in the treasury belonging to the fund sufficient to pay such prior claims and the claim so presented.

213. (1431) (917) (847) (928) (793) Books.—The books of the county treasurer are to be provided at the expense of the county.

214. (1432) (918) (848) (929) (794) Annual account recorded.—The annual account of the county treasurer, when examined and approved by the court of county commissioners, must be recorded and a copy of the same posted at the court-house door.

(Aikin's Digest, p. 426, § 20; Clay's Digest, p. 580, § 30.)

215. (1433) (919) (849) (931) (796) Judge of probate to appoint an expert accountant to examine books and vouchers.—The judge of probate must each year, without giving any notice or information thereof to the county treasurer, appoint one expert accountant, of known integrity, to examine the books and vouchers of the county treasurer and report the condition of the same; and the person so appointed shall proceed without delay to make such examination and report, and to that end he is invested with all the powers and authority conferred by law upon the examiner of public accounts. He shall receive such compensation as may be allowed by the court of county commissioners or board of revenue.

(Aikin's Digest, p. 425, § 16; Clay's Digest, p. 580, § 28.) Committee to examine books of county treasurer; report of committee as evidence against the treasurer; liability of county treasurer for state certificates.—Lewis v. Lee Co., 73 Ala. 154.

216. (1434) (920) (850) (933) (798) Proceedings on death, or termination of office.—In case of the resignation, expiration of his term, or removal from office, the county treasurer, or if he is dead, his personal representatives, must state his account, and deliver all the money, books, papers, and property of the county to his successor, who must report the same to the term of the court of county commissioners held next thereafter, and if satisfied that such account is correct, and that all the money, books, papers, and property of the county have been delivered to such successor, such court must cause an entry thereof to be made of record.

(Clay's Digest, p. 579, § 17.) Action on county treasurer's bond, who proper party; money collected by county treasurer and lost without fault.—Lewis v. Lee Co., 66 Ala. 480.

217. (1435) (921) (851) (934) (799) Compensation.—The county treasurer receives such compensation as may be allowed by the court of county commissioners, in no case exceeding two and one-half per cent on the money received,

As amended, Oct. 10, 1903, p. 406.

and two and one-half per cent of the money paid out by him. His compensation in no case shall exceed the aggregate sum of one thousand dollars in any one year.

(Aikin's Digest, p. 426, § 18; Clay's Digest, p. 579, § 21; Mar. 11, 1875, p. 247.) Barbour Co. v. Clark, 50 Ala. 416.

218. (1436) (922) (851) (934) (799) Forms of accounts.—

*Register of claims against _____ county.
General fund (or special _____ fund).*

NO.	WHEN FILED.	IN WHOSE FAVOR.	WHEN ALLOWED.	CHARACTER OF CLAIM.	AMOUNT.	REMARKS.
1.....	Oct. 2, 1896	A. B.	Oct. 1, 1896	Jail Repairs...	\$43.50	Paid Oct. 2, 1896.
2.....	Nov. 3, 1897	C. D.	Nov. 2, 1897	Stationery.....	75.00	Paid Jan. 1, 1898.

(Or fine and forfeiture fund.)

NO.	WHEN FILED.	IN WHOSE FAVOR.	WHEN ACCRUED.	CHARACTER OF CLAIM.	AMOUNT.	REMARKS.
1.....	June 1, 1896	A. B.	May 1, 1896	Witness	\$1.50	Paid Dec. 1, 1897.
2.....	July 4, 1896	C. D.	Jun- 2, 1896	Sheriff.....	8.00	Paid Jan. 1, 1900.

A. B., treasurer, in account with _____ county.

TO CASH RECEIVED,				DR.	BY CASH PAID OUT,				CR.
WHEN RECEIVED.	OF WHOM.	ON WHAT ACCOUNT.	AM'T.	NO.	WHEN PAID.	CHARACTER OF CLAIM.	IN WHOSE FAVOR.	AM'T.	
Dec. 9, 1896..	G. H.	Taxes, 1896..	\$2,276.50	1 ..	Oct 2, 1896..	Jail Repairs	A. B.	\$43.50	
Feb. 1, 1897..	L. M.	Licenses	148.00	2...	Jan. 3, 1898.	Stationery...	C. D.	75.00	

CROSS REFERENCES.

COURTHOUSE (Political Code)	132-135, 139, 175- 207
COURTHOUSES, JAILS, COUNTY BUILDINGS (Political Code)....	128- 145
COURT RECORDS (Civil Code)	5732-5745
COURTS (Civil Code)	4630, 4632
" (Criminal Code)	6692-6745
COURTS, CHANCERY (Civil Code)	3042-3228
COURTS, CITY (Civil Code)	3296-3300
COURTS, JUSTICES OF THE PEACE (Civil Code)	4637-4730
COURTS MARTIAL (Political Code)	979
COURTS, MUNICIPAL (Political Code)	1213-1229
COURTS OF LAW AND EQUITY (Civil Code)	3296-3300, 6230-6234
COVENANT (Civil Code)	3421
CREDIT (Political Code)	1901, 1872
CREDITORS' BILLS (Civil Code)	3735-3744
CREMATORIES (Political Code)	1282
CRIME AGAINST NATURE (Civil Code)	6746, 6747
CRIMINAL PROVISIONS (Criminal Code)	6210-7900
CROPS (Civil Code)	2614, 4734-4746, 5234-5252
CROSS-BILL (Civil Code)	3118, 3119
CRUELTY TO ANIMALS (Criminal Code)	6230-6234
DAMS (Civil Code)	3888-3909
" (Criminal Code)	7872

DAYS (Political Code)11, 1759
 " (Civil Code) 5144
DEAD BODIES AND GRAVES, OFFENSES CONCERNING (Criminal Code)6748-6753
DEAF, DUMB AND BLIND (ALABAMA INSTITUTE FOR THE DEAF (Political Code)1933-1953
DE BENE ESSE (Civil Code)4030, 4040
DECOYING OFF CHILD (Criminal Code)6210-6213
DECREEES IN CHANCERY (Civil Code)3207-3221
DEED (Criminal Code)6931, 7463, 7477
DEEDS (Conveyances) (Civil Code)3354-3444
DEFAMATION, LIBEL AND SLANDER (Civil Code)3745-3753
DEFAULT, JUDGMENT BY (Civil Code)3852, 5347, 5356
DEFINITIONS (Criminal Code)6754-6756
DEFINITIONS, WORDS AND PHRASES (Political Code) 1-13
DELINQUENT CHILDREN (Criminal Code)6450-6465
DEMURRAGE AND CAR SERVICE (Civil Code)5598-5631
DEMURRER (Civil Code)5340-5345, 5369, 5370
DEMURRER TO EVIDENCE (Civil Code)5342-5345

CHAPTER 13.

DENTISTS. . 219-227.

SECTION.

- 219. Board of dental examiners.
- 220. Qualifications of members of the board.
- 221. Duty and authority of board.
- 222. Temporary license.
- 223. License recorded.
- 224. Proof of license.

SECTION.

- 225. Dentistry must not be practiced without a license.
- 226. Quorum of board of dental examiners.
- 227. When contracts for dental services void.

219. (1444) (1310) Board of dental examiners.—A board of dental examiners is constituted. Such board shall consist of five members, one of whom shall be elected at each annual meeting of the Alabama Dental Association, and shall hold office for five years and until his successor is elected and qualified. Vacancies occurring in the board are filled by appointment for the unexpired term, made by the president of the association.

(Feb. 28, 1887, p. 97, § 2; Feb. 11, 1881, p. 82, §§ 2, 3.)

220. (1445) (1311) Qualifications of members of the board.—The members of the board of dental examiners shall be dental graduates, or practitioners of dentistry, who have obtained a license to practice dentistry from the board of examiners, and members in good standing of the Alabama Dental Association who have practiced dentistry in the State of Alabama for not less than three years.

(Feb. 28, 1887, p. 97, § 1; Feb. 11, 1881, p. 82, § 2.)

As amend-
ed, Mar.
4, 1901, p.
180, § 1.

221. (1446) (1312) Duty and authority of board.—The board of dental examiners shall have authority, and it shall be its duty—

1. To meet annually at the time and place of the annual meeting of the Alabama Dental Association.

2. On the call of three members of the board, to hold special meetings at such times and places as may be appointed, giving to all known practicing dentists in the state through the mails thirty days' notice of such special meeting.

3. To examine all applicants for license, the fees for each of which examinations shall be ten dollars, payable to the board, and to grant licenses to all who shall pass satisfactory examinations.

4. To keep a registry of the licensed practitioners of dentistry in the state, a transcript from which, certified under the seal of the board by the officer having custody thereof, shall be evidence of the license of any practitioner therein named.

(Feb. 28, 1887, p. 97, § 4; Feb. 11, 1881, p. 82, § 4.)

222. (1447) (1313) Temporary license.—One of the board of dental examiners may grant license to practice, which is operative until the regular meeting of the board; but such temporary license must not be granted to an applicant who has been previously rejected by the board.

223. (1448) (1314) License recorded.—The license, other than a temporary license, must be signed by the president of the board of examiners, and countersigned by the secretary, if the board have a secretary, and must, within thirty days after the grant thereof, be filed in the office of the judge of probate of the county of the residence of the person to whom it is issued, and must be therein recorded; and after record thereof, the judge must thereon indorse and certify under the seal of the court the fact of record; and for the record and certificate, the judge of probate is entitled to a fee of one dollar.

224. (1449) (1315) Proof of license.—The license, certified by the judge of probate, is evidence of the authority of the party therein named to practice dentistry; and if the same is lost, a copy of the record, duly certified, is sufficient evidence.

225. (1450) (1316) Dentistry must not be practiced without a license.—It is not lawful to engage in the practice of dentistry without a license from the board of dental examiners; but the mere extraction of teeth shall not constitute the practice of dentistry within the meaning of this chapter.

(Feb. 28, 1887, p. 97, § 3; Feb. 11, 1881, p. 82, § 1.) *Nicholson v. State*, 100 Ala. 132 (14 So. 746).

226. (1451) (1317) Quorum of board of dental examiners.—Three members of the board of dental examiners constitute a quorum for the transaction of business, and if a quorum is not present on the day appointed for a regular or special meeting, so many as are present may adjourn from day to day for five successive days until a quorum is present.

227. (1452) (1318) (1524, 1526) (1231, 1234) (977, 980) When contracts for dental services void.—Every contract or agreement, express or implied, the consideration of which is the service of a dentist, is void, unless the dentist has authority to practice dentistry obtained according to the provisions of this chapter; but proof of such authority must not be required unless two days' notice to make the same is given before the trial of any suit brought to recover the value of such service.

Harrison v. Jones, 80 Ala. 412.

CROSS REFERENCES.

DENTISTRY (Criminal Code)	6757
DEPOSITARIES FOR STATE FUNDS (Political Code)	641- 655
DEPOSITION (Criminal Code)	7886-7890
DEPOSITIONS (at law) (Civil Code)	4030-4057, 3139-3156
DESCENTS AND DISTRIBUTION (Civil Code)	3754-3777
DETINUE (Civil Code)	3778-3792
DIRECTORS OF CORPORATIONS (Civil Code)	3463-3466
DISCHARGE (Civil Code)	5371, 3973
DISCLAIMER (Civil Code)	5448, 3843
DISCONTINUANCE (Civil Code)	2502, 2887
DISCOVERY (Civil Code)	4049-4057, 3735-3744, 3134-3138

DISPENSARIES.
Dispensary Local Option Law.

CHAPTER 14.

DISPENSARIES. 228-289.

ARTICLE 1. DISPENSARY LOCAL OPTION LAW. 228-243.

ARTICLE 2. ESTABLISHING, MAINTAINING, AND OPERATING DISPENSARIES. 244-288.

ARTICLE 3. PROFITS MAY BE DIVIDED BETWEEN CITIES AND COUNTIES. 289.

ARTICLE 1.

DISPENSARY LOCAL OPTION LAW. 228-243.

SECTION.

228. Petition for election to establish dispensaries.

229. Order for election; time of.

230. Copy of order for election, notice and publication of.

231. Managers and officers of election, appointment and qualification of.

232. Notice to officers of appointment.

233. Ballots, character and quantity of.

234. Ascertaining results and making returns of election.

SECTION.

235. Canvassing returns and declaring results of election.

236. Report of result of election, publication and proclamation of.

237. Who may vote at election.

238. Arrests for violation of election law.

239. Contests of election.

240. Contest of election conducted under general election law.

241. Costs of elections.

242. Different elections in same county; when held.

243. Dispensary counties defined.

Mar. 18,
1907, p.
821, § 1.

228. Petition for election to establish dispensaries.—One-fifth of the qualified voters of any county, as shown by the last preceding registration, may file with the probate judge of their county a petition asking that an election be held in said county as to whether dispensaries shall be established in such county.

229. Order for election; time of.—Fifteen days after the filing of such petition the probate judge shall order an election to be held in said county on some Tuesday that shall not be less than forty nor more than sixty days subsequent to the day on which such order is made, nor within thirty days of the time of holding in said county any state or national, general or primary election.

230. Copy of order for election; notice and publication of.—The probate judge shall furnish the sheriff with a copy of said order, and the sheriff shall give notice of said election by publication for twenty days in some newspaper of the county; or, if no newspaper is published in such county, by posting notices of such election in several public places in said county.

Dispensary Local Option Law.

231. Managers and officers of election; appointment and qualification of.—The probate judge, clerk of the circuit court, and sheriff of the county in which an election is ordered under this article shall, within ten days after the election is so ordered, appoint three inspectors or managers, two clerks, and one returning officer for each precinct, polling or voting place in said county, to manage, conduct, and make the returns of such election. Such managers and clerks so appointed shall as far as practicable be equally divided between those who favor and those who oppose the establishment of dispensaries in such county for the sale of liquor. If county executive committees have been elected or appointed to conduct the canvass on either side, and if before the appointment of inspectors and clerks the chairman of any such committee furnishes the probate judge, clerk of the circuit court, and sheriff of the county, which said three officers shall be a board of supervisors, with a list containing as far as practicable the names of three men for each precinct in said county, all of said men having the qualifications required by law of inspectors of elections, then from said list the board of supervisors shall select for each precinct one man who shall be one of the managers for the precinct for which he was one of the men suggested. From the names suggested for the several precincts such board shall select one man as a clerk for the precinct for which he was suggested.

Mar. 18,
1907, p.
821, § 2.

232. Notice to officers of appointment.—As soon as practicable after the appointment of such managers, clerks, and returning officers for said election, the sheriff shall notify them in writing of their appointment.

ib., § 3.

233. Ballots; character and quantity of.—The probate judge shall prepare and provide the necessary ballots, poll lists, tally sheets, return sheets, instructions for holding the election, ballot boxes, voting booths, and other stationery or material necessary for the proper holding of the election, and the sheriff shall see that the same are delivered to one of the managers of each election precinct or voting place before the day of the election. On the ballots to be used at said election shall be written or printed the words, "For Dispensary," and under them the words "Against Dispensary." Electors who favor the dispensary system for the sale of liquors as herein-after set forth shall make on the ballot a cross mark before the words "For Dispensary," and electors who oppose such system shall make on the ballot a cross mark before the words "Against Dispensary." But no ballot or vote shall be rejected or the count thereof refused for failure to comply with this section, if the ballot clearly shows or indicates the choice of the voter.

ib., § 4.

Mar. 18,
1907, p.
321, § 5.

- 234. Ascertaining results and making returns of election.**—Immediately after the polls are closed, the managers shall duly ascertain the result of the election at their respective voting places, and make due returns of the same to the probate judge of said county, and deliver the ballot box containing the returns so made, together with the ballots, poll lists, tally sheets, and other necessary papers, to the returning officer for such voting place, who shall deliver the same to the probate judge of such county at his office on the first day after the election.
- 235. Canvassing returns and declaring results of election.**—The probate judge, clerk of the circuit court, and the sheriff, acting as a board of supervisors, shall in open session on the first Saturday after the election, canvass the returns so made, and under oath make a written report or statement declaring the result of the election as to the entire county, showing the number of votes cast in each precinct "For Dispensary," and the number cast in each precinct "Against Dispensary."
- 236. Report of result of election; publication and proclamation of.**—The report shall be filed at once in the office of the probate judge. In a newspaper published in his county, or, if there be no newspaper published in such county, then by a notice posted at the door of the courthouse and in two other public places in his county, the probate judge shall make a proclamation stating the total vote of the county "For Dispensary" and the total vote of the county "Against Dispensary," and which side had a majority at such election and the amount thereof. If a majority of the votes cast at such election were "For Dispensary," then in such proclamation the judge of probate shall also state and declare that the county, giving its name, is and shall be a dispensary county under the dispensary local option law.
- 237. Who may vote at election.**—All men who in their several counties are qualified electors under the constitution and general election laws of this state at the time of the election provided for in this chapter, and only such, shall be entitled to vote at any election under the provisions of this chapter.
- 238. Arrests for violation of election law.**—The sheriff, deputy sheriff, or any constable shall arrest without process any person who violates the provisions of this article, or the provisions and incidents of said election laws, and commit him to jail until he shall give bond, with good and sufficient sureties, to be approved by the sheriff, for his appearance at the next term of the circuit, county, or city court having jurisdiction of the offense, to answer any indictment which may be found against him.

Dispensary Local Option Law.

239. Contests of election.—A contest of the election held under this article in any county may be made by any qualified elector of the county by executing a bond, with two sufficient sureties, to be approved by the judge of probate of the county for the payment of the costs of the contests. Notice of the contest shall be served on the circuit solicitor of the county in which the contest is instituted. Upon the execution of a bond for costs, signed by three or more qualified electors of such county, to be approved by the judge of probate of the county, said solicitor shall respond in the name of the county, and the county shall be contestee. Both in the lower and appellate courts said contest shall be a preferred case. Mar. 13,
1907, p.
321, § 10.

240. Contest of election conducted under general election law.—All provisions and incidents of the election law of this state, including a contest, which pertain to the election of judges of probate, shall be observed at the election herein ordered, as far as the same are applicable and not out of harmony with the provisions of this article. In general, all elections held under this article shall be held and conducted, except where it is otherwise provided in this article, under the general election laws of this state, and the officers of election under the general election laws of this state shall discharge and perform the same duties and receive the same compensation as are required of them and is provided for them in the general election laws of this state. Ib., § 11.

241. Costs of elections.—Such compensation and all costs of election shall be paid out of the county treasury of the county in which the election is held. Ib.

242. Different elections in same county; when held.—Different elections in the same county may be held under this article. But when any election has been held under this article in any county, no other election shall be held in such county under this article within two years from the date of such election. Ib., § 12.

243. Dispensary counties defined.—All counties in which at the election held under the provisions of this article a majority of the voters were ascertained and declared to have been cast "For Dispensary" are designated in this article as "dispensary counties under the dispensary local option law." Ib., § 13.

ARTICLE 2.

ESTABLISHING, MAINTAINING, AND OPERATING DISPENSARIES. 244-288.

SECTION.

- 244. Municipalities which may establish and maintain dispensaries.
- 245. Dispensary defined.
- 246. Number of dispensaries graduated according to population.
- 247. Dispensaries must be within corporate limits.
- 248. Amount of money invested in dispensary.
- 249. Purchasing agent, election and term of office; vacancies, how filled.
- 250. Powers and duties of purchasing agent.
- 251. Bottles and packages, character and capacity.
- 252. Storage and bottling room.
- 253. Time of opening and closing storage room.
- 254. Cash payments for purchases; how made.
- 255. Number of purchasing agents, assistants, agents, etc.; how determined.
- 256. Salaries and wages of assistants, employes, etc.
- 257. Selling price of liquors.
- 258. Books, papers, and records of purchasing agent, inspection of.
- 259. Dispenser, election and term of office.
- 260. Powers and duties of dispenser.
- 261. Liabilities of dispenser.
- 262. Number of, salary and wages of servants or assistants of dispensers; how fixed and how paid.
- 263. Nominating or selecting dispensers and purchasing agents by the commissioners court, one of whom must be selected by towns or cities.
- 264. Qualification and eligibility for nomination or election to office of dispenser or purchasing agent.

SECTION.

- 265. Selection and election of dispensers and purchasing agents by cities and towns.
- 266. Dispenser or purchasing agent shall not interfere with duties.
- 267. Money to be used in dispensary; how provided.
- 268. Bond and oath of dispenser and purchasing agent.
- 269. Vacancy; how filled.
- 270. Salaries of dispenser and purchasing agent.
- 271. Only one sale a day to same person.
- 272. Hours of sale.
- 273. Drinking on premises prohibited.
- 274. Sealed and broken packages.
- 275. Duties and requirements of dispenser.
- 276. Books and papers open to inspection.
- 277. Reports of dispenser to legislative body; contents and publication of.
- 278. Maintaining and operating.
- 279. Moneys and dispensary; how kept and deposited and paid and applied.
- 280. Moneys and proceeds, prorated between municipality and county.
- 281. Town or city, share of money, how apportioned.
- 282. Counties share of money, how appropriated.
- 283. Money to confederate soldiers.
- 284. Part of proceeds applied to creating redemption fund for bonds.
- 285. Capital stock of dispensary.
- 286. Dispensary buildings; where located and how conducted.
- 287. Definition of terms.
- 288. Repealing section.

Mar. 13.
1907, p.
321, § 14.

244. Municipalities which may establish and maintain dispensaries.—Each incorporated city and town in each of the dispensary counties under the preceding article, except the towns hereinafter described, on and after the first day of January next succeeding the time of the election held under

Establishing, Maintaining, and Operating Dispensaries.

the preceding article in the county in which such cities and towns are severally situated, may establish, maintain, and operate in its corporate name, in its corporate capacity, and through its legislative body, the business of buying and selling spirituous, vinous, and malt liquors, subject to the conditions and restrictions hereinafter mentioned.

Act ratified by popular vote.—Childers v. Shepherd, 142 Ala. 385 (39 So. 235). The acts of the legislature creating the dispensary at Florence, at Abbeville, at Headland, and at Elba were declared unconstitutional and void in cases respectively Mitchell v. State, 134 Ala. 392 (32 So. 687); Newman v. State, 39 So. 648; Espy v. Oates, 38 So. 1033; Elba v. Rhodes, 142 Ala. 689 (38 So. 807). Statute construed.—Gibson v. Mabry, 145 Ala. 112 (40 So. 297).

245. Dispensary defined.—The place at which said business of buying and selling liquors is carried on shall be called a dispensary. Mar. 13,
1907, p.
321, § 14.
(r.c.c.)

246. Number of dispensaries graduated according to population.—In each of said towns or cities which has a population of ten thousand persons or less, there shall be one dispensary, and only one. In towns or cities that have a population greater than ten thousand, and not exceeding twenty thousand, there may be two dispensaries. In general, there may be in each city a dispensary for every ten thousand of its population. Cities whose population is over twenty thousand, and between multiples of ten thousand, may have a dispensary for every ten thousand of its population, and an additional dispensary for the excess of its population over the lower one of the said multiples. But no dispensary shall be established in a town that has less than three hundred inhabitants, unless said town is a county site. The population of towns and cities shall be determined by the last preceding federal census.

247. Dispensaries must be within corporate limits.—Dispensaries shall be established and carried on only within the corporate limits of towns or cities. Ib.

248. Amount of money invested in dispensary.—Each municipality that carries on such business shall invest in the business at the outset a sum of money not less than three hundred dollars nor more than ten thousand dollars for each dispensary it may establish and carry on. The liquors bought and sold as herein provided shall be of the purest and best quality. Ib.

249. Purchasing agent; election and term of office; vacancies, how filled.—There shall be a purchasing agent for each dispensary that may be established. The first purchasing agents for a dispensary or dispensaries established in any county under this article shall be elected within three months after the judge of probate has made proclamation as above provided that this county is one of the dispensary counties Ib., § 15.

Establishing, Maintaining, and Operating Dispensaries.

under the provisions of the preceding article, and the term of office of said purchasing agents shall begin on the day on which the dispensary is to open, and shall continue for two years. The term of their successors in office shall be two years. Purchasing agents shall not hold office for more than two terms in succession. But the filling of a vacancy shall not be considered as one of said successive terms. Under all events, however, such purchasing agent shall hold office until his successor is elected and qualified.

Mar. 13,
1907, p.
321, § 15.

250. Powers and duties of purchasing agent.—The purchasing agent shall purchase and deliver to the dispenser all the liquors that are to be sold in the dispensary, and may employ a chemist to inspect and analyze any liquors which he contemplates purchasing or has already purchased, and he shall not deliver to the dispenser any liquor which the chemist has pronounced unsuitable for use, but he shall return such liquors to the person, firm, or corporation from which he bought them and make reclamation therefor if he has already paid for the same. He may buy in bulk and have the liquors put in bottles. The purchasing agent shall not sell or give away any liquor whatever. He shall select and appoint each and every assistant, servant, and employe that may be used in or about his work; and he shall be liable civilly for the acts and commissions of each of said assistants, servants, and employes. He shall keep an accurate account of what he purchases and what he delivers to the dispenser. He shall fix the selling price of liquors, and when bottling he shall put a label on each bottle, which shall state the kind and price of liquor it contains. He shall keep an accurate account of all liquors purchased by him and of all liquors delivered by him to the dispenser, and for all liquors so delivered he shall take a receipt from the dispenser. On the first day of each month the said purchasing agent shall make a report to the legislative body of his town or city on such forms and in such way and manner as said body may direct; he shall manage and conduct the storage room of the dispensary for which he was elected and discharge the duties of his said office.

Ib.
(r.o.c.)

251. Bottles and packages; character and capacity.—Whiskies, brandies, wines, and gin shall be put in bottles that hold one quart, in bottles that hold only one pint, in bottles that hold only one-half pint, in bottles that hold one-fourth of a pint, in bottles that hold only one-eighth of a pint, and in bottles that hold only one-sixteenth of a pint, to the end that persons may be able to buy whiskies, brandies, or gin in the small quantities above mentioned. But no whiskey, brandies, wine, or gin shall be put in bottles that hold more than a quart, but the purchasing agent may buy malt liquors, bottled in

Establishing, Maintaining, and Operating Dispensaries.

standard size bottles, and the dispensers may sell the same in the bottle in which it is bought.

252. Storage and bottling room.—The premises in which the bottling is done shall be different from those in which the dispensary is situated. But they shall be in the same town as the premises of the dispensary. The place where the liquors are received and bottled and from which they are sent to the dispensary shall be called the storage room. The storage room shall be a part of the dispensary. But when the term dispensary is used in this article to designate a particular place, it refers, unless the contrary is indicated by the context, to the place where the liquor is sold and not the storage room. Mar. 18,
1907, p.
821, § 15.

253. Time of opening and closing storage room.—This storage room shall not be open and work shall not be done in the same between the hours of 6 p. m. of one day and 6 a. m. of the next day. 1b.

254. Cash payments for purchases; how made.—The purchasing agent shall pay cash for all liquors purchased by him by drawing his warrant on the dispenser, and the dispenser shall pay said warrant. 1b.

255. Number of purchasing agents, assistants, agents, etc.; how determined.—The number of the purchasing agents, assistants, servants, and employes, and the salaries and wages to be paid each, shall be determined by the legislative body of the town or city in which the dispensary is located. 1b.

256. Salaries and wages of assistants, employes, etc.—The salaries or wages shall be paid monthly on the last day of each month, and they shall be made known to the assistants, servants, and employes before such assistants, servants, and employes are engaged. Said salaries and wages shall in no way or manner whatever be made or permitted to depend upon the amount of the sales of the dispensary. 1b.

257. Selling price of liquors.—The selling price shall be an amount not greater than fifty per cent above the original cost or invoice price. 1b.

258. Books, papers and records of purchasing agent; inspection of.—All books, papers, accounts, and records of the purchasing agent shall at all times be open to the inspection of any citizen of the county, of the dispenser, and of the legislative body of his town or city and of every member of said body, and under the ordinances, rules, and regulations of the legislative body of the town or city in which the dispensary is located, which said ordinances, rules, and regulations shall in no wise be inconsistent with the provisions of this article. 1b.

259. Dispenser, election and term of office.—There shall be a dispenser for each dispensary that may be established. The 1b., § 17.

DISPENSARIES.

Establishing, Maintaining, and Operating Dispensaries.

first dispensers shall be elected within three months after the proclamation of the judge of probate, that the county is a dispensary county under the dispensary local option law. Their term of office shall begin on the first day of January next succeeding said proclamation, and shall continue two years. The term of their successors in office shall be two years. Dispensers shall not hold office for more than two terms in succession. But the filling of a vacancy shall not be considered one of said successive terms. Under all events each dispenser shall hold office until his successor is elected and qualified.

Mar. 13,
1907, p.
321, § 17.

260. Powers and duties of dispenser.—Under the provisions of this article and under the ordinances, rules, and regulations of the legislative body of the town or city in which the dispensary is located—which said ordinances, rules, and regulations shall in no wise be inconsistent with the provisions of this article—each dispenser shall manage and conduct the dispensary for which he was elected; he shall select and appoint each and every assistant, servant, and employe that may be used or employed in or about the dispensary.

1b. **261. Liabilities of dispenser.**—The dispenser shall be liable civilly for the acts and omissions of each of said assistants, servants, and employes.

1b. **262. Number of, salary and wages of servants or assistants of dispenser, how fixed and how paid.**—The number of the dispenser's assistants, servants, and employes, and the salaries and wages to be paid to each, shall be determined by the legislative body of the town or city in which the dispensary is located. Said salary or wages shall be made known to the assistants, servants, and employes before such assistants, servants, and employes are engaged, and said salaries or wages shall be paid on the last day of each month for services rendered during that month. Such salaries and wages shall in no way or manner whatever be made, or permitted to depend upon the amount of the sales of such dispensary.

1b., § 18. **263. Nominating or selecting dispensers and purchasing agents by the commissioners' court, one of whom must be selected by towns or cities.**—For the purpose of aiding, as hereinafter prescribed, in the selection of purchasing agents and dispensers, a meeting of the court of county commissioners of each county in whose towns or cities a dispensary is herein authorized to be established, shall be called whenever necessary. At any regular or called meeting of said court of county commissioners that may be held within two months after the judge of probate has issued his proclamation declaring that the county was one of the aforesaid dispensary counties under the preceding article, and at any regular or called meeting of

Establishing, Maintaining, and Operating Dispensaries.

said court that may be held between the last day of September of the year in which said proclamation was made, and the sixteenth day of December of that year, and at any regular or called meeting of said court that may be held between the last day of September and the sixteenth day of December every two years after said period of said last mentioned year, said court of county commissioners shall furnish to the mayor or other chief executive of those towns and cities in their respective counties in which dispensaries are authorized to be established, the names of three times as many men as the number of dispensaries which such towns and cities of their respective counties are severally authorized to establish, specifying the men who are nominated or assigned to each town or city in their county and stating that the men whose names are so furnished are the men from whom the legislative body of such towns or cities must select its dispenser or dispensers, and purchasing agent.

264. Qualification and eligibility for nomination or election to office of dispenser or purchasing agent.—The dispenser and purchasing agent shall be residents of the county by whose court of county commissioners they may be selected, shall be a qualified elector, and shall be regarded as honest, temperate, law abiding, and competent to manage and conduct a dispensary in said towns and cities. Mar. 13, 1907, p. 321, § 18.

265. Selection and election of dispensers and purchasing agents by cities and towns.—Before the first day of the first term of office, and before the first day of each succeeding term of office herein provided for, the legislative body of each of said towns and cities shall, from the names so nominated and furnished, elect a dispenser or dispensers and purchasing agent for its town or city, assigning to each dispenser and purchasing agent his dispensary. Said dispenser, under the direction and control of the legislative body of the town or city in which his dispensary is situated—so far as said direction and control are not inconsistent with the provisions of this article—shall sell liquors and manage and conduct the dispensary for a term of two years, and until his successor is elected and qualified. 1b.

266. Dispenser or purchasing agent shall not interfere with duties.—The dispenser or purchasing agent shall not interfere with the duties and privileges of the other or control him in such matters. 1b.

267. Money to be used in dispensary, how provided.—Each town or city that has a dispensary shall provide its dispenser with whatever money within the aforesaid limits, that it wishes to use in conducting the business. 1b.

Establishing, Maintaining, and Operating Dispensaries.

Mar. 13,
1907, p.
321, § 18.

268. Bond and oath of dispenser and purchasing agent.—Before entering upon the duties of his office, each dispenser and purchasing agent shall make affirmation before an officer authorized to administer oaths that he will obey all laws of the State of Alabama, and of the town or city of which he is dispenser or purchasing agent relative to the sale, giving away, or delivery of liquors of any kind. They shall also, before beginning business, execute to the town or city bonds conditioned for the honest and faithful discharge of their duty as such dispenser and purchasing agent. Said bonds shall be for the sum of three thousand dollars, shall have two sufficient sureties, and shall be approved by the mayor, or other chief executive of said town or city. Any person who may be injured by the failure of the dispenser and purchasing agent to observe the provisions of this article or of any rule, ordinance, or regulation of his town or city in reference to his dispensary may sue on said bonds. For neglect of business, incompetency, misfeasance or malfeasance in office, a dispenser and purchasing agent may be impeached by the legislative body of the town or city and for cause, to be judged of by said body, either may be removed from office.

1b.

269. Vacancy, how filled.—Whenever a vacancy in either of said offices occurs in any town or city, from any cause whatever, the mayor, or other chief executive of such town or city, shall certify that fact to the judge of probate of the county in which said town or city is situated. Said mayor or other chief executive, of such town or city, may appoint a temporary dispenser or purchasing agent until the vacancy shall be filled as herein provided. But such temporary dispenser or purchasing agent shall in no event hold office longer than twenty days. Said judge shall immediately call a meeting of the court of county commissioners of his county, and said court shall nominate and furnish to said mayor, or other chief executive, the names of three men having the aforesaid qualifications for dispenser or purchasing agent, and from these three names the legislative body of said town or city shall elect a dispenser to fill the vacancy.

1b., § 20.

270. Salaries of dispenser and purchasing agent.—The legislative and governing body of the towns and cities in which dispensaries may hereafter be operated shall pay to its purchasing agents and to its dispenser or dispensers, a salary which shall be fixed by said body before the dispensers and purchasing agents are elected, and shall not be changed during their term of office. The salaries of dispensers shall not be less than five hundred nor more than twenty-five hundred dollars per annum, and shall be paid in equal monthly installments on the last day of each month. The salary of the purchasing agent shall not

Establishing, Maintaining, and Operating Dispensaries.

exceed eighty per cent of that of the dispenser, and shall be payable monthly on the last day of each month. Said legislative body shall not make or permit the amount of the salary of the purchasing agent or the amount of the salary of the dispenser to depend in any way, or in any degree whatever, on the amount of sales that may be made by its dispenser or dispensers.

271. Only one sale a day to same person.—The dispenser shall not sell, hand, or deliver liquors to the same person oftener than once in any one day, whether the sale, handing, or delivery be to such person on his own account or for his own use and benefit, or on account of or for the benefit of some other person, or some firm or corporation. Mar. 18.
1907, p.
321, § 21.

272. Hours of sale.—No sales shall be made between the hours of 6 p. m. of one day and of 6 a. m. of the next day. Ib.

273. Drinking on premises prohibited.—No dispenser or purchasing agent shall himself drink, consume, or give away any liquor of any kind, or in any quantity, on the premises of the dispensary or storage room, nor shall they permit or suffer any assistant, servant, employe, purchaser, or any person whomsoever to drink, consume, or give away, any liquor on said premises. But this section shall not be construed so as to prohibit the dispenser or purchasing agent, or some employe designated by the latter, from sampling liquors which the purchasing agent may contemplate purchasing. The dispenser and purchasing agent shall report to the grand jury any one whom they, or either of them, believes to be guilty of violating the provisions of this section. Ib., § 23.

274. Sealed and broken packages.—The dispenser shall not keep in his dispensary any broken package of liquor. If the package should be accidentally broken, the contents shall at once be bottled and the bottle sealed. The dispenser shall not sell any spirituous, vinous, or malt liquors that are not contained in sealed packages. Ib., § 25.

275. Duties and requirements of dispenser.—The dispenser shall sell no liquors of any kind except those which he receives from the purchasing agent of his dispensary. He shall not sell on Sundays, or sell to minors or to persons of known intemperate habits. He shall not sell at one time more than one quart of whiskey, brandy, or gin, or any two of these liquors, or of all of them together. He shall sell for cash only. He shall keep an accurate record of the amount of each day's sales. The dispenser shall buy furniture, fixtures, and appliances for his dispensary and for the storage room, pay all expenses of the dispensary, including those of the storage rooms, and take a voucher for all moneys disbursed. The expenses of the storage Ib., §§ 26
and 29.

Establishing, Maintaining, and Operating Dispensaries.

room shall be paid by the dispenser on warrants drawn on him by the purchasing agent.

Mar. 13,
1907, p.
331, § 26.

276. Books and papers open to inspection.—All books, papers, accounts, and records of the dispenser shall at all times be open to the legislative body of his town or city and of every member thereof, and of every citizen of the county.

Ib.

277. Reports of dispenser to legislative body, contents and publication of.—On the first day of each month each dispenser shall make to the legislative body of his town or city a complete statement of the assets and liabilities of his dispensary as they stood on the last day of the preceding month. Said report shall also state the average number of sales for each business day during the preceding month. Said report shall at once be published in a newspaper published in the dispenser's county. Such report shall be made in such forms, and under such directions, rules, and regulations as the legislative body may prescribe. In said report the dispenser shall give full and accurate information as to the condition, expenses, profits, losses, and status of his business. He shall give other and additional information, orally or in writing, whenever and as often as the legislative body of his town or city, or any member of said body, may require.

Ib., § 28.

278. Maintaining and operating.—Subject to the provisions of this chapter, the legislative body of the towns and cities of dispensary counties under the dispensary local option law may maintain and operate dispensaries and regulate and control the management and conduct of the same.

Ib., § 29.

279. Moneys of dispensary, how kept and deposited and paid and applied.—Unless instructed by the legislative body of the city not to keep the dispensary money in a bank, the dispenser shall deposit the proceeds of each day's sale, and all other dispensary money, if he has any, in some solvent bank. The dispensary money shall not be put on the dispenser's individual account in the bank, but to his credit as dispenser, and the dispensary money shall not be mixed with the dispenser's private funds. Only the dispenser is authorized to draw draft or checks for the dispensary money deposited in a bank.

Ib.

280. Moneys and proceeds, prorated between municipality and county.—On the first day of each month, the dispenser shall pay to the treasurer of his town or city sixty per cent of the net profits of the dispensary for the month preceding, and to the treasurer of his county, forty per cent of said net profits.

Ib.

281. Town or city; share of money, how apportioned.—The money so paid to the treasurer of the town or city shall be the exclusive property of such town or city, and may be used by the

Establishing, Maintaining, and Operating Dispensaries.

legislative body thereof in any way in which said body is authorized to spend the money of said town or city.

282. County's share of money, how appropriated.—The money that is so paid to the county treasurer shall be the exclusive property of such county, and may in the discretion of the court of county commissioners of said county, be used in part, to giving pensions to such Confederate veterans of their county as are entitled to receive pensions under the laws of the state. Mar. 13,
1907, p.
321, § 29.

283. Money to Confederate soldiers—Money that is to be paid to Confederate veterans shall be distributed under the directions of said county commissioners. But such distribution and payment shall be made as far as practicable in the same manner in which Confederate pensions are distributed and paid by the state, except, that state officers shall have nothing to do with the handling of such money. All the county dispensary money, or so much of it as may not be used in paying pensions as above provided, may be used in any way in which said court of county commissioners are authorized to spend county money. Said court of county commissioners is authorized to use said county dispensary money in any way said court may see fit in furthering the cause of education in the county, whether such use be by donation or otherwise. Ib.

284. Part of proceeds applied to creating redemption fund for bonds.—All towns and cities owning and operating a dispensary may contract with the governing body of the county of its location to donate to such county, not exceeding fifty per cent of the net revenue derived from the operation of such dispensary for the purpose of paying the interest upon and providing a redemption fund for any bonds issued by such county for the construction or improvement of public roads therein, but this section shall not apply to cities and towns having dispensaries established prior to March 6, 1907, where a division of the profits with the county is provided for, nor to cities and towns in which dispensaries may be established after March 6, 1907, a part of whose net revenues go to the county in which they are located. Mar. 6,
1907, p.
341, § 1.

285. Capital stock of dispensary.—The capital stock of dispensaries established and operated in any county under the provisions of this chapter, including furniture, fixtures, and appliances, shall be and remain the exclusive property of the several towns and cities in which the dispensaries are respectively established. Mar. 13,
1907, p.
321, § 29.

286. Dispensary buildings, where located and how conducted.—The dispensary established under this chapter shall be located in a public and convenient place. No gates, doors, Ib., § 32.
(r. c. c.)

Profits may be Divided Between Cities and Counties.

windows, or openings of any kind shall connect any dispensary with any adjacent house or lot so as to permit ingress into or egress out of such house or lot from or into the dispensary. No blinds or screens, chairs or tables, shall be set up or used in such dispensaries. No games, gaming, nor loitering in dispensary or storage room shall be allowed. Throughout the night a light or lights shall be kept burning in the dispensary, and no doors, blinds, curtains, shades, screens, or other thing shall be allowed to prevent persons on the outside of the dispensary from seeing inside thereof. The provisions of this section in reference to dispensaries shall apply to and be observed in the case of storage rooms.

MAR. 13,
1907, p.
321, § 33.

287. Definition of terms.—The term “legislative body,” where it appears in this chapter, is intended to mean or designate the law-making body of the towns or cities herein referred to, whether said body is called mayor and aldermen, board of mayor and aldermen, council, town council, city council, intendant and town council, or by some other name. The term, court of county commissioners, as used in this chapter, is intended to include the terms, board of revenue and road commissioners, or any other term of designation by which the official body whose duties are the same as those of the court of county commissioners or similar thereto, may be called.

IB., § 34.
(R.C.C.)

288. Repealing section.—This chapter is not intended, and shall not be construed, to repeal or affect the operation of any law existing at the time of the election herein provided for which prohibits the sale of liquors, or to repeal or affect the operation of any law existing at the time of said election which provides for the purchase and sale of liquors by municipal corporations in or through dispensaries; such dispensaries and other laws governing them not repealed shall be considered local; but any dispensary heretofore established under a different law may operate under this law if the legislature or governing body of such dispensary elect so to do, which must be evidenced by resolution and published in a newspaper published in such county for three weeks. All other laws and parts of laws that conflict with the provisions of this chapter are repealed.

ARTICLE 3.

PROFITS MAY BE DIVIDED BETWEEN CITIES AND COUNTIES. 289.

AUG. 13,
1907, p.
726, §§ 1
and 2.

289. Division of profits between cities and counties.—The governing bodies of all towns and cities owning and operating a dispensary in counties in this state where no part of the net profits of such dispensaries are divided with the county in which such dispensary is owned and operated, are hereby

granted the right, power, and authority to give or donate to the county in which such dispensary is operated a part of the net revenues derived from the operation of such dispensary not exceeding forty per cent thereof, to be used by the governing body of such county in the improvement of the public roads of said county. Nothing in this section shall be so construed as to make it compulsory upon the said governing body of said towns and cities to make said gift or donation, or any part thereof, to said counties; but the purport, intent, and meaning of this section is merely to confer upon them the right, power, and authority to do so.

CROSS REFERENCES.

DISPENSARY (Criminal Code)	6758-6766
DISPOSING OF MORTGAGED PROPERTY (Criminal Code)	7423
DISPOSING OF PROPERTY UNLAWFULLY (Criminal Code).....	
	6920-6934, 6240, 7342, 7343, 7423, 7821
DISPOSITION OF FARM PRODUCTS (Criminal Code)	6878, 6879
DISSOLVING CORPORATIONS (Quo Warranto) (Civil Code)....	5450-5472
DISTILLERS (License required for) (Political Code)	2361
DISTRIBUTEES (Civil Code)	3754-3777
DISTRIBUTIONS (Civil Code)	3754-3777
DISTRICT OF COLUMBIA (Political Code)	7
DISTRICTS (Chancery) (Civil Code)	3042-3047
(Congressional) (Political Code)	99, 100
(School) (Political Code)	1691-1696
(Senatorial) (Political Code)	901
DISTRINGAS (Civil Code)	3784
DISTURBING FEMALES, RELIGIOUS WORSHIP AND SCHOOL ASSEMBLIES (Criminal Code)	6767-6769
DIVISIONS, CHANCERY (Civil Code)	3042-3051
DIVORCE AND ALIMONY (Civil Code)	3793-3811
DOCTORS, OFFENSES CONCERNING (Criminal Code)	7564
DOCUMENTARY EVIDENCE (Civil Code)	3965-4006, 4058, 4059
DOGS (Civil Code)	2832-2836
" (Criminal Code)	6235, 6236
DOMESTIC ANIMALS, OFFENSES CONCERNING (Criminal Code)	
	6230-6242
DOMESTIC RELATIONS (Civil Code)	4337-4481, 4486-4504, 4877-4891
DOMINOES (Political Code)	2361
DOWER (Civil Code)	3812-3837
DRAWBRIDGE (Civil Code)	5478-5480
DRUGGISTS AND PHARMACISTS (Criminal Code)	7549-7563, 7577
DRUNKARDS, ESTATES OF (Civil Code)	4611-4618
DRUNKENNESS (Civil Code)	4611-4618
" (Criminal Code)	6770, 6793, 7843
DUCEB TECUM (Civil Code)	4060, 4061
DUELING (Political Code)	1467, 1475
" (Criminal Code)	6771, 6772, 7085
EDUCATION (Political Code)	1348-1358, 1678-1953
EJECTMENT (Civil Code)	3838-3859

ELECTIONS.

Electors and Voters; Who Are and Who Are Not.

CHAPTER 15.

ELECTIONS. 290-511.

- ARTICLE 1. ELECTORS AND VOTERS; WHO ARE AND WHO ARE NOT. 290-297.
 ARTICLE 2. ELECTOR PRIVILEGED FROM ARREST. 298, 299.
 ARTICLE 3. REGISTRATION. 300-330.
 ARTICLE 4. WHAT OFFICERS ELECTED; TIME AND PLACE OF ELECTION. 331-338.
 ARTICLE 5. PRECINCTS, POLLING PLACES, AND BOXES. 339-346.
 ARTICLE 6. OFFICERS OF ELECTIONS, APPOINTMENT AND DUTIES OF. 347-353.
 ARTICLE 7. ELECTIONS, CONDUCT AND MANAGEMENT OF. 354-372.
 ARTICLE 8. BALLOTS, FORM AND CHARACTER OF—NOMINEE MAY DECLINE. 373-380.
 ARTICLE 9. BALLOT OR TICKET, HOW FIXED OR VOTED—CONDUCT OF ELECTIONS. 381-400.
 ARTICLE 10. CHALLENGE OF VOTER. 407-411.
 ARTICLE 11. SHERIFF MUST PRESERVE ORDER AT ELECTIONS. 412.
 ARTICLE 12. COUNTING OF VOTES BY INSPECTORS. 413-419.
 ARTICLE 13. CANVASSING RETURNS OF ELECTIONS FOR COUNTY. 420, 421.
 ARTICLE 14. CANVASS OF RETURNS AND DECLARATION OF RESULT FOR STATE OFFICERS. 422-427.
 ARTICLE 15. TIE, HOW DECIDED. 428-432.
 ARTICLE 16. PENALTY FOR FAILING TO MAKE RETURNS. 433-434.
 ARTICLE 17. CERTIFICATE OF ELECTION. 435.
 ARTICLE 18. ELECTIONS ON AMENDMENTS TO THE CONSTITUTION. 436-438.
 ARTICLE 19. SPECIAL ELECTIONS. 439-445.
 ARTICLE 20. ELECTORS FOR PRESIDENT AND VICE-PRESIDENT; REPRESENTATIVES IN CONGRESS. 446-451.
 ARTICLE 21. ELECTIONS IN NEW COUNTIES. 452-454.
 ARTICLE 22. CONTESTING ELECTIONS; PROVISIONS COMMON TO ALL CONTESTS. 455-459.
 ARTICLE 23. CONTESTING ELECTIONS OF MEMBERS OF THE LEGISLATURE, CHANCELLOR, CIRCUIT JUDGE, ANY OFFICE FILLED BY THE VOTE OF A SINGLE COUNTY, JUSTICE OF THE PEACE, OR CONSTABLE. 460-477.
 ARTICLE 24. CONTESTING ELECTIONS OF STATE OFFICERS. 478-491.
 ARTICLE 25. COUNTY LOCAL OPTION PROHIBITION LAW. 492-511.

Note.—Elections as to Dispensaries, §§ 228-243.

Elections as to County Bonds, §§ 158-174.

ARTICLE 1.

ELECTORS AND VOTERS; WHO ARE AND WHO ARE NOT. 290-297.

SECTION.

290. Qualification of elector to vote.
 291. Foreigners; right to vote.
 292. Elector changing precinct or ward.
 293. Disqualification of elector to vote.

SECTION.

294. Pardon restores citizenship and right to vote.
 295. Residence not acquired or lost by temporary absence.
 296. Residence in two or more counties; right to select.
 297. Liners between counties or precincts.

Oct. 9,
 1908, p.
 438, § 1.

290. (1556) (319) (224) **Qualification of elector to vote.**—Every male citizen of this state who is a citizen of the United States, and every male resident of foreign birth, who, before the ratification of the present constitution of the state, shall

Electors and Voters; Who Are and Who Are Not.

have legally declared his intention to become a citizen of the United States, twenty-one years old or upwards, not laboring under any of the disabilities named in section 293 (1557) of this code, and who shall have resided in this state at least two years, in the county one year, and in the precinct or ward three months, immediately preceding the election at which he offers to vote, and who shall have been duly registered as an elector, and shall have paid, on or before the first day of February next preceding the date of the election at which he offers to vote, all poll taxes due from him for the year 1901, and for each subsequent year, shall be an elector, and shall be entitled to vote at any election by the people.

Origin and history of statute.—Toulmin's Digest, pp. 266-288. (Aikin's Digest, pp. 138-147, § 1; Mar. 6, 1876, p. 103, § 1; amended Feb. 9, 1877, p. 123, § 1.) As to the qualifications of railroad employes as electors who move about from place to place working upon railroads, see *Black v. Pate*, 136 Ala. 601 (34 So. 844); s. c., 130 Ala. 514 (30 So. 434). Incompetency may be shown by circumstantial evidence.—*Black v. Pate*, 130 Ala. 514 (30 So. 434). Power of legislature to establish and locate courthouse sites, election laws for regulating elections thereunder.—*State v. Crook*, 126 Ala. 600 (28 So. 745).

Provision for county superintendent of education holding office until successor is qualified does not prolong term of office beyond reasonable time.—*State v. Thompson*, 142 Ala. 98 (38 So. 679). Not rendered local under § 106 and § 110 of the Constitution because it did not apply to all county officers. This election law did not change the term of any incumbent in office.—*State v. Thompson*, 142 Ala. 98 (38 So. 679); *Prowell v. Hasty*, 142 Ala. 80 (39 So. 164). Held not to repeal local laws for certain counties which provided for the election of county officers.—*Tyson v. Houghton*, 142 Ala. 90 (38 So. 761). The general election law in connection with § 155 of the Constitution as to the election of probate judges and time of holding office held not to postpone commencement of the term of office of the probate judge elected in November, 1904.—*Prowell v. Hasty*, 142 Ala. 80 (39 So. 164). See *Mayfield's Digest*, vol. 3, p. 153; vol. 5, p. 314.

291. Foreigners, right to vote.—All foreigners, who shall have legally declared their intention to become citizens of the United States shall, if they fail to become citizens thereof at the time they are entitled to become such, cease to have the right to vote until they become such citizens. Oct 9,
1903, p.
438, § 1.

292. Elector changing precinct or ward.—Any elector who, within three months next preceding the date of the election at which he offers to vote, has removed from one precinct or ward to another precinct or ward in the same county, incorporated town or city, shall have the right to vote in the precinct from which he has so removed, if he would have been entitled to vote at such precinct but for such removal. 1b.

293. (1557) (320) Disqualifications of elector to vote.—The following persons shall be disqualified both from registering and voting: All idiots and insane persons; those who were by reason of conviction of crime disqualified from voting at the time of the ratification of the constitution on November 28, Ib., § 2.
(r.c.c.)

Electors and Voters; Who Are and Who Are Not.

1901; those who have been since November 28, 1901, or who shall be convicted of treason, murder, arson, embezzlement, malfeasance in office, larceny, receiving stolen property, obtaining property or money under false pretenses, perjury, subornation of perjury, robbery, assault with intent to rob, burglary, forgery, bribery, assault and battery on wife, bigamy, living in adultery, sodomy, incest, rape, miscegenation, crime against nature, or any crime punishable by imprisonment in the penitentiary, or of any infamous crime or crimes involving moral turpitude; also any person who has been since November 28, 1901, or who shall be convicted as a vagrant or tramp, or of selling or offering to sell his vote, or the vote of another; or of buying or offering to buy the vote of another, or of making or offering to make false return in any election by the people, or in any primary election to procure the nomination or election of any person to any office, or of suborning any witness or registrar to secure the registration of any person as an elector.

(Clay's Digest, p. 169, § 2; Dec. 14, 1894, p. 204.) Conviction of larceny and of receiving stolen goods.—*Gandy v. State*, 86 Ala. 20 (5 So. 420); s. c., 82 Ala. 81 (2 So. 465); *Anderson v. State*, 72 Ala. 187. Applies to local elections.—*Ib.* Election franchise, nature of; a privilege and not a right; constitution and statutes not *ex post facto*.—*Washington v. State*, 75 Ala. 582.

Oct. 9,
1908, p.
488, § 2;
Constitu-
tion, 1901,
§ 124.

294. Pardon restores citizenship and right to vote.—Any person who is disqualified from voting by reason of conviction of any of the offenses mentioned in section 293 (1557) of this code, except treason, whether the conviction was had in a state or federal court, and who has been pardoned, may be restored to his citizenship with right to vote by the governor, approved by the board of pardons and specially expressed in the pardon.

Oct. 9,
1908, p.
488, § 3;
Constitu-
tion 1901,
§ 81.

295. (1558) (321) (226) Residence not acquired or lost by temporary absence.—No person shall lose or acquire a residence either by temporary absence from his place of residence without the intention of remaining, or by being a student of an institution of learning, or by navigating any of the waters of this state, the United States, or the high seas, without having acquired any other lawful residence, or by being absent from his place of residence in the civil or military service of the state, or the United States; neither shall any soldier, sailor, or marine, in the military or naval service of the United States, acquire a residence by being stationed in this state.

(Mar. 6. 1876, p. 103, § 1; as amended, Feb. 9, 1877, p. 123, § 2.)

Oct. 9,
1908, p.
488, § 4.

296. (1559) Residence in two or more counties; right to select.—When the place of residence of any person is located partly in two or more counties or precincts, such persons may select the county or precinct of his residence, and to that end

Elector Privileged From Arrest.

may file a statement in writing in the office of the judge of probate of the county selected, setting forth the locality of his residence and the lines passing through the same, together with the county or precinct selected for residence, which statement, when filed and recorded, shall establish the residence of the person filing it in the county or precinct of his selection.

(Feb. 1, 1895, p. 346.) Person residing on line between two counties.—*Danforth v. Nabors*, 120 Ala. 430 (24 So. 891).

297. Liners between counties or precincts.—Any person who may be declared to be a liner between counties or precincts, and shall have fixed his citizenship according to law and that may be hereafter provided in such cases, shall be construed a citizen and elector of the county or precinct in which he so fixes his citizenship, for all the purposes of this chapter.

Oct. 9,
1908, p.
438, § 4.

Origin and history of statute.—*Toulmin's Digest*, pp. 266-288. (Feb. 21, 1893, p. 837, § 1.)

ARTICLE 2.

ELECTOR PRIVILEGED FROM ARREST. 298, 299.

SECTION.

298. Arrest of electors denied during and while returning from election.

SECTION.

299. Liquor not sold or given away at election.

298. (1634) (378) (282) Arrest of electors denied during and while returning from election.—An elector must not be arrested during his attendance at elections, or while going to or returning therefrom, except for treason, felony, or breach of the peace, or for a violation on that day of any of the provisions of the election law. For such breach of the peace the sheriff or his deputy may arrest without process and commit to jail until the offender shall give bond with good and sufficient surety, to be approved by the sheriff, for his appearance at the next term of the circuit or city court to answer any indictment which may be found against him.

Oct. 9,
1908, p.
438, § 94;
Cons.
1901, § 192.

(Mar. 3, 1875, p. 76, § 98.)

299. (1636) (380) (284) Liquor not sold or given away at election.—No person shall sell, give away, or otherwise dispose of any spirituous, vinous, or malt liquors, of any kind or description, during the day on which any election may be held, or on the preceding day.

Oct. 9,
1908, p.
438, § 96.

(Mar. 3, 1875, p. 76, § 99.)

ARTICLE 3.

REGISTRATION. 300-330.

- SECTION.
- 300. Registrars; appointment of.
 - 301. Term of office.
 - 302. Vacancies of registrars; how filled.
 - 303. Fees, compensation of registrars.
 - 304. Oath of registrars.
 - 305. Board of registrars to hold fixed meetings and give notice thereof.
 - 306. Places of registration.
 - 307. Certificate of registration.
 - 308. Time and place for special registration.
 - 309. Time and place when two or more such elections are held on same day.
 - 310. Time and place of meeting of board where there are two courthouses.
 - 311. Examination and oath of applicant to register.
 - 312. Persons qualified to register.
 - 313. Applicant may be refused.
 - 314. Majority of the board a quorum.
 - 315. Right of appeal from registrars.

- SECTION.
- 316. Not required to re-register.
 - 317. Registration books, forms, and blanks furnished by secretary of state.
 - 318. List of names registered by precincts.
 - 319. List of voters and electors.
 - 320. Re-registered on change of county or residence.
 - 321. Duplicate certificate issued in event of loss.
 - 322. Applicant for registration to make oath required.
 - 323. Times for purging list of registration.
 - 324. Notice and hearing when names are to be stricken from list.
 - 325. Time and place of meeting.
 - 326. Proceedings on hearing.
 - 327. Books kept as to names stricken from list.
 - 328. Books for registrars.
 - 329. Duty of registrars as to names stricken from list.
 - 330. Reason shown for electors taken from list.

Oct. 9,
1908, p.
488, § 5.

300. (1561) Registrars, appointment of.—Registration shall be conducted in each county by a board of three reputable and suitable persons, to be appointed by the governor, state auditor and commissioner of agriculture and industries, or by a majority of them acting as a board of appointment, and who must be also qualified electors and residents of the county, and who shall not hold an elective office during their term.

(Feb. 21, 1893, p. 837, § 2.)

Ib.

301. Terms of office. The registrars so appointed shall hold office for four years and until their successors are appointed.

Ib.

302. (1571) Vacancies of registrars; how filled.—If one or more of the persons appointed on such board of registration shall refuse, neglect, or be unable to qualify or serve, or if a vacancy or vacancies occur in the membership of the board of registrars from any cause, the governor, state auditor, and commissioner of agriculture and industries, or a majority of them acting as a board of appointment, shall make other appointments to fill such board.

(Feb. 21, 1893, p. 837, § 12.)

Registration.

303. (1570) Fees, compensation of registrars.—Each registrar shall receive three dollars per day, to be paid by the state, and disbursed by the several judges of probate, for each day's attendance upon the sessions of the board. Oct. 9,
1903, p.
488, § 5.

(Feb. 21, 1893, p. 837, §§ 10, 11.)

304. Oath of registrars.—Before entering upon the performance of the duties of his office, each registrar shall take the same oath as required of the judicial officers of the state, which oath may be administered by any person authorized to administer oaths. The oath shall be in writing and subscribed by the registrar, and filed in the office of the judge of probate of the county. Said registrars are judicial officers and shall act judicially in all matters pertaining to the registration of applicants. Ib.

305. (1563, 1572) Board of registrars to hold fixed meetings and give notice thereof.—The board of registrars in each county shall visit each precinct at least once, and oftener if necessary, between July first and October first, 1908, and each two years thereafter, to make a complete registration of all persons entitled to register, and shall remain there at least one day, from eight o'clock in the morning until sunset. They shall give at least twenty days' notice of the time when, and the place in the precinct where they will attend to register applicants for registration, by bills posted at three or more public places in each election precinct, and by advertisement once a week for three successive weeks in a newspaper, if there be one published in the county. Upon failure to give such notice, or to attend any appointment made by them in any precinct, they shall, after like notice, fill new appointments therein; but the time consumed by the board in completing such registration shall not exceed forty working days in any county, except that in counties having more than 50,000 population, as shown by the last preceding census, the time shall not exceed sixty days. Ib., § 6.

306. Places of registration.—No person shall be registered except at the county site or in the precinct or ward where he resides. Ib., § 6.

(Feb. 21, 1893, p. 837, § 4.)

307. (1565) Certificate of registration.—The registrars shall issue to each person registered a certificate of registration. Ib.

(Feb. 21, 1893, p. 837, § 6.)

308. Time and place for special registration.—On Friday and Saturday next preceding the day of each general or munic- Ib.

Registration.

ipal election, held under the municipal laws of this state, the registrars shall sit in the court house of each county, during such days, and, in the event of a municipal election being held in a town other than the county site, and on a day other than that of any special or general election, said registrars shall sit on Friday and Saturday preceding such election at some place within the corporate limits of the municipality wherein such proposed election is to be held, of the time and place of which sitting due notice shall be given as provided for in the matter of regular registration.

Oct. 9,
1903, p.
438, § 6.

309. Time and place when two or more such elections are held on same day.—When two or more such elections are to be held on the same day, then the board of registrars shall sit at the court house of such county for such time, and shall register all applicants having the qualifications of an elector, who shall have reached the age of twenty-one years since the last date of registration, or who shall prove to the reasonable satisfaction of the board that by reason of the physical disability of himself or sickness during the period when the board of registrars were registering the voters in the precinct where the applicant resided, in his family, or unavoidable inability to attend the registration at other times, or by reason of absence from the county, he had no opportunity to register prior to said time, and they shall not on such days register any other persons. The board of registration in each county shall meet at the court house on the last Monday in September, 1904, and each two years thereafter, and shall remain in session one week for the registration of voters.

Ib., § 6½.

310. Time and place of meeting of board where there are two court houses.—Where there are two court houses in a county the registrars may sit four days; viz.: on Wednesday, Thursday, Friday, and Saturday next preceding the days of such regular election, two of such days at each court house, and they shall give twenty days' notice, by bills posted at each of the court houses designating the time and place at which they will sit; if there are more than two court houses, the registrars shall select the two court houses at which they will sit and shall give notice as above provided.

Ib., § 7.

311. Examination and oath of applicant to register.—The board of registrars shall have power to examine, under oath or affirmation, all applicants for registration, and to take testimony touching the qualifications of such applicants. Each member of such board is authorized to administer the oath to be taken by the applicants and witnesses, which shall be in the following form and subscribed by the person making it, and preserved by the board, namely:

Registration.

"I solemnly swear (or affirm) that in the matter of the application of _____ for registration as elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God."

312. Persons qualified to register.—The following persons, and no others, who, if their place of residence shall remain unchanged, will have, at the date of the next general election the qualifications as to residence prescribed by section 290 (1556) of this Code, shall be qualified to register as electors, provided they shall not be disqualified under section 293 (1557) of this Code. Oct. 9,
1908, p.
438, § 7½.

1st. Those who can read and write any article of the constitution of the United States in the English language, and who are physically unable to work; and those who can read and write any article of the constitution of the United States in the English language and who have worked or been regularly engaged in some lawful employment, business or occupation, trade or calling for the greater part of the twelve months next preceding the time they offer to register, and those who are unable to read and write, if such inability is due solely to physical disability; or,

2d. The owner in good faith in his own right, or the husband of a woman who is the owner in good faith in her own right, of forty acres of land situate in this state, upon which they reside; or the owner in good faith in his own right, or the husband of any woman who is the owner in good faith in her own right of real estate situate in this state, assessed for taxation at the value of three hundred dollars or more, or the owner in good faith, in his own right, or the husband of any woman who is the owner in good faith of her own right, of personal property in this state assessed for taxation for three hundred dollars or more; provided that the taxes due upon such real or personal property for the year next preceding the year in which he offers to register shall have been paid, unless the assessment shall have been legally contested and is undetermined.

313. Applicant may be refused.—Any person making application to the board of registrars for registration who fails to establish by evidence to the reasonable satisfaction of the board of registrars that he is qualified to register, may be refused registration. Ib., § 8.

314. Majority of the board a quorum.—The action of a majority of the board of registrars shall be the action of the board, and a majority of the board shall constitute a quorum for the transaction of all business. Ib., § 9.

Oct. 9,
1908, p.
488, § 9.

315. Right of appeal from registrars.—Any person to whom registration is denied shall have the right of appeal, without giving security for cost, within thirty days after such denial, by filing a petition in the circuit court or court of like jurisdiction held for the county in which he seeks to register, to have his qualifications as an elector determined. Upon the filing of the petition, the clerk of the court shall give notice thereof to any solicitor authorized to represent the state in said county, who shall appear and defend against the petition on behalf of the state. Upon such trial the court shall charge the jury only as to what constitutes the qualifications that entitle the applicant to become an elector at the time he applied for registration, and the jury shall determine the weight and effect of the evidence and return a verdict. From the judgment rendered an appeal will lie to the supreme court in favor of the petitioner, to be taken within thirty days. Final judgment in favor of the petitioner shall entitle him to registration as of the date of his application to the registrars.

Ib.

316. Not required to reregister. No person registered as an elector shall again be required to register unless his place of residence is changed.

Ib., § 10.

317. (1568) Registration books, forms and blanks furnished by secretary of state.—The secretary of state shall, at the expense of the state, have prepared and furnish to the registrars and judges of probate of the several counties a sufficient number of registration books and of blank forms of oath, certificates of registration, and of notices required to be given by registrars. The cost of publication of the notices required to be given by the registrars shall be paid by the state, the bills therefor to be rendered to the secretary of state and approved by him.

Ib., § 12.

318. (1566) List of names registered by precincts.—The board of registrars shall each year, within two weeks after the expiration of the time prescribed for registration, make a copy of the list of names registered, stating the residence of the person registered by precinct—if not in an incorporated city or town, or by wards if in an incorporated city or town—which copy, along with the registration list, must be returned to the office of the judge of probate of the county. The judge of probate shall certify an alphabetical list to the secretary of state. The judge of probate shall keep both the original list filed by the registrars and the alphabetical list made therefrom as records in the office of the judge of probate of the county, and same shall be open to public inspection.

(Feb. 21, 1893, p. 837, § 7.)

Ib., § 13.

319. (1567) List of voters and electors.—The judge of probate shall, from the registration list returned to his office, in-

Registration.

cluding those registered prior to January 1, 1903, make correct alphabetical lists of the electors registered by precincts, which list shall be certified by him officially to be a full and correct copy of the lists of registered electors for each precinct respectively as the same appears from the returns of the board of registrars on file in his office. One copy of said list for each precinct the judge of probate shall deliver or cause to be delivered to the inspectors in each precinct immediately preceding every election.

(Feb. 21, 1893, p. 837, § 8.)

320. Reregistered on change of county or residence.—Any elector who registered prior to January 1st, 1903, who has changed his residence shall be registered on application on production of his certificate, unless he has since become disqualified.

Constitution, § 187.
Oct. 9,
1903, p.
438, § 15.

321. Duplicate certificate issued in event of loss.—When the certificate of any elector who was duly registered has been lost, mutilated, or destroyed, on application stating that the certificate has been lost, mutilated or destroyed, and verified by affidavit, and it appears of record that such applicant has been registered, the judge of probate of the county of registration or the secretary of state shall issue to the applicant a certificate that he was duly registered as an elector. Such certificate shall be issued free of charge to the elector. The secretary of state shall, at the expense of the state, furnish the judge of probate blank certificates for use as provided in this section.

Ib., § 16.

Cons.,
§ 187.

322. Applicant for registration to make oath required.—Any applicant for registration may be required to state under oath, to be administered by the registrars, or any person authorized by law to administer oaths, where he lived during the five years next preceding the time at which he applied to register, and the name or names by which he was known during that period, and the name of his employer or employers, if any, during such period. Any applicant for registration who refuses to state such facts, or any of them, shall not be entitled to register.

Ib., § 17.

Cons.,
§ 188.

323. Times for purging list of registration.—The board of registrars shall meet in each county on the second Monday in August, 1908, and every two years thereafter, for purging the registration list, and may continue in session one week. The names of those who have died, become nonresidents of the state, become insane, and been so declared by inquisition of lunacy, or who have been convicted of any offense mentioned in section 182 of the constitution since being registered, or otherwise disqualified as electors under the provisions of the

Cons.,
§ 190:
Oct. 9,
1908, p.
438, § 18.

constitution, and any names which may have been fraudulently entered on such list, shall be stricken from the registration list.

Oct. 9,
1908, p.
488, § 19.

324. Notice and hearing when names are to be stricken from list.—When the name of any elector is proposed to be stricken from the registration list, unless he be dead or is a nonresident of the state, notice shall be issued to him by the board of registrars, citing him to appear before the board on the fourth Monday in August, following, and show cause why his name should not be stricken from the list. Said notice shall be served by the sheriff at least five days before the said fourth Monday in August.

325. Time and place of meeting.—The board of registrars shall meet in each county on the fourth Monday in August, 1908, and every two years thereafter, and may continue in session one week.

326. Proceedings on hearing.—On said date the board shall proceed to consider the case of each elector whose name it is proposed to strike from the registration list, and determine the same, provided that on the demand of any person whose name is proposed to be stricken from the list a trial by jury may be had, and the board shall forthwith certify the proceedings to the circuit clerk or clerk of a court of like jurisdiction, who shall docket the case in the circuit court of the county or other court of like jurisdiction. The solicitor shall represent the state in the trial of said cause.

327. Books kept as to names stricken from list.—The board of registrars shall enter on a book, to be furnished by the secretary of state at the expense of the state for that purpose, the names in alphabetical order by precincts of all electors stricken from the registration list, and after each meeting for purging the registration list shall file the same in the office of the judge of probate. On the filing of said book the probate judge shall strike all such names from the list in his office and shall not again send them out to the inspectors.

328. Books for registrars.—The board of registrars shall be furnished by the secretary of state, at the expense of the state, necessary books for the registration of electors so arranged that the names of the electors registered may be conveniently entered on said book in alphabetical order.

329. Duty of registrars as to names stricken from list.—The registrars shall ascertain, while visiting the several precincts of the county, the names of all persons who should be stricken from the registration list by reason of death or otherwise.

330. Reason shown for electors taken from list.—When the name of any elector is stricken from the registration list, the

What Officers Elected; Time and Place of Election.

list filed in the office of the judge of probate must show the reason for striking the said elector from the list.

ARTICLE 4.

WHAT OFFICERS ELECTED; TIME AND PLACE OF ELECTION. 331-338.

SECTION.

331. State and county officers who are elected by the people.
 332. General election; for whom held.
 333. Time of general election.
 334. County officers; when elected.

SECTION.

335. Justices of the supreme court; when elected.
 336. Circuit and probate judges; when elected.
 337. Circuit solicitors; when elected.
 338. Presidential electors and congressmen; when elected.

331. (1573) (338) (243) State and county officers who are elected by the people.—The following officers in this state shall be elected by the qualified electors thereof: Governor, lieutenant-governor, attorney-general, state auditor, secretary of state, state treasurer, superintendent of education, commissioner of agriculture and industries, and railroad commissioners, state game and fish commissioner, senators and representatives in the legislature, chief justice and associate justices of the supreme court, supernumerary judges, judges of the circuit court, circuit solicitors, chancellors, judges of the probate court, sheriffs, coroners, clerks of the circuit courts, clerks of city courts of record in counties having a population of over 100,000, tax assessors, tax collectors, county treasurers, county superintendents of education, county solicitors whose offices are elective, county commissioners and boards of revenue, constables, justices of the peace, representatives in congress, and electors for president and vice-president of the United States, and such other officers as may be required by law to be elected by the people.

Oct. 9,
 1903, p.
 438, § 24.
 (r.c.c.)

(Mar. 6, 1876, p. 103, § 3.) Effect of general election law of 1903 as to the extension or termination of terms of office by changing the time of election of the various officers construed.—*Prowell v. State*, 142 Ala. 80 (39 So. 164). As to whether the general election law repealed local election laws for the election of county officers, see *State v. Houghton*, 142 Ala. 90 (38 So. 761); *State v. Thompson*, 142 Ala. 98 (39 So. 164). The legislature intended to preserve the terms of office notwithstanding the general election law changed the time of the election.—*Prowell v. State*, 142 Ala. 80 (39 So. 164).

332. (1574) (339) (244) General election; for whom held. ib., § 25.
 —General elections throughout the state shall be held for governor, lieutenant-governor, attorney-general, state auditor, secretary of state, state treasurer, superintendent of education, commissioner of agriculture and industries, three railroad commissioners, no two of whom shall be elected from the same congressional district; state game and fish commis-

What Officers Elected; Time and Place of Election.

sioner, chief justice and associate justices of the supreme court, supernumerary judge, and electors for president and vice-president of the United States, and such other officers as may be required by law to be elected by the voters of the entire state; for a member of congress in each congressional district; a chancellor in each chancery division; a judge of the circuit court in each judicial circuit; a circuit solicitor in each judicial circuit; a senator in each senatorial district; a representative or representatives in the legislature; a judge of the probate court, sheriff, clerks of the circuit courts, and clerks of city courts of record in counties having a population of over 100,000; tax assessor, tax collector, a county treasurer, county solicitors in such counties where there are such solicitors, whose offices are elective; county superintendents of education, coroner, and county commissioners or members of the board of revenue in each county, or courts or boards of like jurisdiction; justices of the peace and constables in each precinct of the county.

(Mar. 6, 1876, p. 103, § 4.)

Oct. 9,
1903, p.
438, § 26.
(r. c. c.)

333. (1575) (340) (245) Time of general elections.—The governor, lieutenant-governor, attorney-general, state auditor, secretary of state, state treasurer, superintendent of education, commissioner of agriculture and industries, senators and representatives in the legislature, and a sheriff in each county shall be elected on the first Tuesday after the first Monday in November, 1910, and in every fourth year thereafter. A president of the railroad commission and a state game and fish commissioner shall be elected on the first Tuesday after the first Monday in November, 1908, and every fourth year thereafter. Two associate railroad commissioners shall be elected on the first Tuesday after the first Monday in November, 1910, and every fourth year thereafter.

(Mar. 6, 1876, p. 103, § 5.)

Ib., § 27.

334. (1576) (1577) (341) County officers; when elected.—One coroner, county commissioners or board of revenue of whatever number composed, or courts or boards of like jurisdiction, one tax assessor, one tax collector, one county treasurer, one county superintendent of education, two justices of the peace, and one constable for each election precinct shall be elected on the first Tuesday after the first Monday in November, 1908, and every fourth year thereafter.

Power of the legislature to create and abolish precincts; effect upon office of justice of the peace.—*Garrett v. Sawyer*, 139 Ala. 138 (36 So. 545). Jurisdiction of justice of the peace as to his precinct and county.—*Ex parte Davis*, 95 Ala. 9 (11 So. 308); *Boynton v. State*, 77 Ala. 29.

335. (1578) (342) (247) Justices of the supreme court; when elected.—A chief justice and two associate justices of

Precincts, Polling Places, and Boxes.

the supreme court shall be elected on the first Tuesday after the first Monday in November, 1910, and every six years thereafter; two associate justices shall be elected on the first Tuesday after the first Monday in November, 1908, and every six years thereafter, and two associate justices shall be elected on the first Tuesday after the first Monday in November, 1912, and every six years thereafter. The justices of the supreme court shall hold office for a term of six years and until their successors are elected and qualified.

(Mar. 6, 1876, p. 103, § 8.)

336. (1578) (342) (247) Circuit and probate judges; when elected.—The supernumerary judge, chancellors, judges of the circuit and probate courts, and clerks of the circuit court, shall be elected on the first Tuesday after the first Monday in November, 1910, and every sixth year thereafter.

(Mar. 6, 1876, p. 103, § 8.)

337. Circuit solicitors; when elected.—One circuit solicitor for each judicial circuit shall be elected on the first Tuesday after the first Monday in November, 1910, and every fourth year thereafter, and their terms shall be four years and until their successors are elected and qualified.

338. (1579) (343) (248) Presidential electors and congressmen; when elected.—Electors for president and vice-president of the United States shall be elected on the first Tuesday after the first Monday in November, 1908, and every fourth year thereafter; a member of congress from each congressional district shall be elected on the first Tuesday after the first Monday in November, 1908, and every second year thereafter.

(Mar., 1876, p. 103, § 7.) Time of congressional elections is official history which courts take notice of.—Lewis v. Bruton, 74 Ala. 320.

ARTICLE 5.

PRECINCTS, POLLING PLACES, AND BOXES. 339-346.

SECTION.

339. Election precincts.

340. Establishment, change, and abolition.

341. Two places of voting in the same precinct.

342. Orders for same to be recorded

SECTION.

343. How numbers and boundaries of precincts and places of voting are known.

344. Places of voting.

345. Notice of change in precincts and places of voting.

346. Number of ballot boxes, and by whom provided.

339. (1580) (344) (251) Election precincts.—The counties in this state, as now divided into election precincts, and the boundaries of such precincts as now defined, shall so remain

Precincts, Polling Places, and Boxes.

until changed by an order of the court of county commissioners.

Origin and history of statute.—Toulmin's Digest, pp. 266-288. (Mar. 3, 1875, p. 76, § 16.)

340. (1581) (345) (252) (228) (185) **Establishment, change, and abolition.**—The courts of county commissioners may, in their respective counties, establish, change, or abolish election precincts, and places of voting therein, and may change the boundary lines thereof, as the convenience of the voters in such precincts may, in their judgment, require; but no order under this section shall take effect, unless made at least sixty days before any election, nor until three months after notice thereof has been posted up at the courthouse door of such county.

341. (1582) (346) (253) (227) **Two places of voting in the same precinct.**—The several courts of county commissioners, within their respective counties, may establish two places of voting in the same election precinct, when it is deemed necessary to the convenience of the voters therein; but no such change shall be made within less than thirty days before an election.

(Feb. 25, 1860, p. 44.) County commissioners, right to establish two or more voting places.—Black v. Pate, 136 Ala. 601 (34 So. 844); s. c., 130 Ala. 514 (30 So. 434).

342. (1583) (347) (254) (229) (186) **Orders for same to be recorded.**—All orders made under the provisions of the two preceding sections must be recorded within three days after the adjournment of the court at which the same were made.

343. (1584) (348) (255) (226) (184) **How numbers and boundaries of precincts and places of voting are known.**—The numbers and boundaries of precincts and the places of holding elections must be known and designated as entered upon the records of the court of county commissioners.

344. (1585) (349) (256) **Places of voting.**—The courthouse is the place of holding elections in the precinct in which it is situated, and elections must be held at such places in the other precincts as are now designated by law for that purpose, or may be designated hereafter by the court of county commissioners.

(Mar. 3, 1875, p. 76, § 17.) Permissible to establish two voting places in one precinct.—Black v. Pate, 136 Ala. 601 (34 So. 844); s. c., 130 Ala. 514 (30 So. 434).

345. (1586) (350) (257) **Notice of change in precincts and places of voting.**—Whenever a change has been made by the court of county commissioners in the number or boundaries

Officers of Elections; Appointment and Duties of.

of precincts, or in the places of voting therein, it shall be the duty of the judge of probate, within five days thereafter, to give notice of such change, to be posted by the sheriff at the courthouse door, and at two public places in such precinct. Such notice must describe such precinct by its number, and must specify the place where elections are to be held therein, and the change or changes, if any, in the boundaries or number thereof.

346. (1587) (351) (258) Number of ballot boxes and by whom provided.—The judge of probate, sheriff, and clerk of the circuit court of each county in this state shall provide one ballot box, and where it is deemed necessary, shall provide more than one, and not more than three, at each place of voting.

(Aikin's Digest, p. 138, § 7; Mar. 6, 1876, p. 103, § 19.)

ARTICLE 6.

OFFICERS OF ELECTIONS; APPOINTMENT AND DUTIES OF. 347-353.

SECTION.

347. Officers of election; how appointed.
 348. Sheriff notifies officers of election.
 349. When county officers not eligible on appointing boards.
 350. Place on appointing board; how supplied.

SECTION.

351. Proceedings when no register in chancery.
 352. Political parties furnish lists from which appointments are made.
 353. Watchers; how appointed and their duties.

347. (1588) (352) (259) Officers of election; how appointed. Oct. 9, 1903, p. 438, § 82.
 —The judge of probate, sheriff, and clerk of the circuit court, or a majority of them acting as an appointing board, must, not more than twenty nor less than fifteen days before the holding of any election in their county, appoint from the qualified electors of the respective voting places three inspectors and two clerks for each place of voting, and returning officer for each precinct, to act at the place of holding elections in each precinct.

(Aikin's Digest, p. 138, § 9; Mar. 3, 1875, p. 76, § 21.) Constitutional and statutory provisions under the Code of 1886 construed.—*Taliaferro v. Lee*, 97 Ala. 92 (13 So. 125); *Taylor v. Kolb*, 100 Ala. 603 (13 So. 779).

348. Sheriff notifies officers of election.—The sheriff shall notify such inspectors and returning officers and clerks of their appointment and publish a list of them in some newspaper published in the county.

349. When county officers not eligible on appointing boards. Ib., § 41.
 —When the judge of probate, sheriff, or clerk of the circuit court is a candidate for election to any office at that election,

Officers of Elections; Appointment and Duties of.

he shall not serve on the appointing board. The judge of probate shall certify to the register in chancery the fact of the candidacy of any member of the appointing board immediately after the certificate of nomination, or petition, as provided in section 372 (1606) of this Code, is filed with him.

Oct. 9,
1908, p.
438, § 42.

350. Place on appointing board; how supplied.—Upon receiving the certificate provided for in the preceding sections the register in chancery or such clerk shall forthwith and without delay appoint a qualified elector to take the place of each member of the appointing board who is a candidate for election, and shall cause the elector so appointed to be informed of his appointment; provided, that no person shall be appointed who is a candidate for any office to be voted for in that election. Any person serving as a member of the appointing board shall receive four dollars for such service. The person so appointed shall perform all the duties and be vested with all the powers of the regular members of the appointing board and shall take an oath to faithfully perform his duties.

Ib., § 43.

351. Proceedings when no register in chancery.—When there is no register in chancery or he is disqualified from any cause to perform the duties herein prescribed, the judge of probate shall certify the fact of the candidacy of the judge of probate, sheriff, or circuit clerk to the governor, who shall forthwith appoint a qualified elector to act in the place of each of said officers who is a candidate for election, who shall take an oath to faithfully discharge his duties.

Ib., § 33.

352. (1595) Political parties furnish lists from which appointments are made.—Each political party or organization having made nominations may, by the chairman of its state or county executive committee or nominees for office, furnish the appointing board a list of not less than three names of qualified electors from each voting place, and from each of said lists an inspector and clerk shall be appointed for each voting place; provided, that where there are more than two lists filed, the appointments shall be made from the lists presented by the two political parties having received the highest number of votes in the state in the next preceding regular election, if each of said parties present a list.

(Feb. 18, 1895, p. 676, § 3.)

Ib., § 34.

353. Watchers; how appointed and their duties.—Each political party or organization having candidates nominated may, by the chairman of its county executive committee or nominees for office or beat committeeman, name a watcher who shall be permitted to be present at the place where the ballots are cast from the time the polls are opened until the

Elections, Conduct and Management of.

ballots are counted and certificates of the result of the election signed by the inspectors. The said watcher shall be permitted to see the ballots as they are called during the count. The watcher shall be sworn to faithfully observe the rule of law prescribed for the conduct of such elections.

ARTICLE 7.

ELECTIONS, CONDUCT AND MANAGEMENT OF. 354-372.

SECTION.

- 354. Numbering of ballots.
- 355. Certificate of result.
- 356. Returning officer.
- 357. Notice by sheriff of election.
- 358. Time and place of holding elections.
- 359. Officers of election failing to attend, others appointed.
- 360. No adjournment.
- 361. Inspectors may appoint returning officer.
- 362. Inspectors and clerks appointed.
- 363. Registration certificate and poll tax receipt, when not required.

SECTION.

- 364. Poll tax list furnished by tax collector.
- 365. Poll tax list delivered to inspector.
- 366. Returns of election; how made, and duty of probate judge.
- 367. Poll list sealed.
- 368. Candidate barred by bribery.
- 369. Oaths of election officers.
- 370. Challenge of voters.
- 371. Limit of polling place.
- 372. Names of candidates placed on ballots; certificate of nomination.

354. Numbering of ballots.—Each ballot shall be numbered by one of the inspectors to correspond to the number of the voter voting the same, on the poll list. A voter may write his name on his ballot. The number corresponding with the voter's name on the poll list must be plainly entered in ink on the back of the ballot of the voter.

Oct. 9.
1908. p.
438, § 34½.

Statutory provision requiring ballots to be numbered is not mandatory; may be counted though not numbered.—*Montgomery v. Henry*, 144 Ala. 629 (39 So. 507).

355. Certificate of result.—Immediately after the election the inspectors shall post in front of the polling place a copy of their certificate of the result of the election.

ib., § 35.

356. (1589) (353) (260) Returning officer.—The sheriff of each county, or the person discharging the duties of such office, is the returning officer for his county.

ib., § 36.

(Mar. 3, 1875, p. 76, § 42.)

357. (1590) (354) (261) Notice by sheriff of election.—The sheriff must give notice at least thirty days before each election, by publication in some newspaper in the county, if any is published therein, and if not, by writing posted at the courthouse door and at three other public places in the county, of the time of holding and the offices to be filled by such election.

ib., § 37.

Elections, Conduct and Management of.

Such notice shall consist only of the date of the election and the officers to be voted for or subjects to be voted on.

(Aikin's Digest, p. 138, § 7.)

Oct. 9,
1903, p.
438, § 38. **358. Time and place of holding elections.**—The inspectors, clerks, and returning officers appointed shall meet at the place of holding elections in the several precincts for which they have been appointed, by 8 o'clock of the morning of the election, and before 9 o'clock open the several polling places as designated.

Ib. **359. (1591) (355) (262) Officers of election failing to attend, others appointed.**—On the failure of any inspector or returning officer to attend at the hour of eight, such inspector and returning officers as may be present may complete the number. If none of the inspectors appointed are present, the returning officer of a precinct shall appoint three inspectors to act who, in every instance, shall be qualified electors who are entitled to vote at the polling place, and who shall appoint from the qualified electors at such polling place such clerks as may be necessary to fill places of those failing to attend; and if there should be no inspector or returning officer present by the hour of eight, at the polling place, then any three qualified electors who are entitled by law to vote at that polling place at the election then to be held, may open the polls and act as inspectors during the election, and appoint clerks to fill the places of those absent in the manner hereinabove provided.

(Aikin's Digest, p. 141, § 27; Mar. 3, 1875, p. 76, § 22; Mar. 6, 1876, p. 109, § 1.)

Ib. **360. No adjournment.**—After the polls have been opened no adjournment or recess shall be taken until the certificate of the result of the election is signed.

Ib., § 39. **361. (1592) (356) (263) Inspectors may appoint returning officer.**—If the returning officer is not present at the hour appointed, the inspectors or those acting as such must appoint from the qualified electors one to serve during the election.

(Aikin's Digest, p. 138, § 10; Mar. 3, 1875, p. 76, § 24.)

Ib., § 40. **362. (1593) (357) (264) (243) (201) Inspectors and clerks appointed.**—If no lists are furnished as provided in section 352 (1595) of this Code, the appointing board shall appoint inspectors, two of whom shall be members of opposing political parties, if practicable, and shall appoint clerks from opposing political parties, if practicable.

(Mar. 3, 1876, p. 76, § 25.)

Elections, Conduct and Management of.

363. Registration certificate and poll tax receipt; when not required.—Elector^{Oct. 9,}s whose names appear on the list of regis-^{1908, p.}tered voters and list of those who have paid all poll tax due fur-^{438, § 44.}nished the inspectors by the judge of probate, may vote without producing their registration certificate or poll tax receipt.

364. Poll tax list furnished by tax collector.—On February^{Ib., § 46.} 1st of each year the several tax collectors shall furnish the judges of probate an alphabetical list of all persons who have paid poll tax since February 1st of the preceding year, and said statement shall show for what year each poll tax was paid. The tax collector shall attach to said statement an affidavit that it is a true statement of all the poll taxes during the term mentioned and contains no poll taxes not paid during said time.

365. Poll tax list delivered to inspector.—Each judge of^{Ib., § 47.} probate shall deliver or cause to be delivered to an inspector at each voting place immediately preceding each regular election an alphabetical list of all persons in such precinct who have paid all poll taxes due prior to February 1st preceding the election, and an alphabetical list of all registered voters in such precinct.

366. Returns of election; how made and duty of probate judge.—One copy of the certificate of the result of the election^{Ib., § 55.} shall be signed by the inspectors and enclosed in an envelope, which shall then be securely sealed, and each of the inspectors shall write his name across every fold at which the envelope, if unfastened, could be opened. That said envelope, with certificate enclosed, shall be at once delivered to the returning officer of the precinct, who shall deliver the same in the condition received to the judge of probate. The judge of probate shall keep and preserve the same unopened until the board of supervisors meet to ascertain the result of the election. In case of loss, mutilation, or absence of the original certificate of the result of the election, by the inspectors of any voting place, the envelope shall be opened, and the copy therein shall be accepted as a certificate of the result of the election for that voting place.

367. Poll list sealed.—The poll list shall be sealed in an^{Ib., § 56½.} envelope before the inspectors begin to count the vote, and shall not be opened.

368. Candidate barred by bribery.—Any candidate for office^{Ib., § 56.} in any election upon conviction of bribing, or attempting to influence voter, under section 6790 (4694) of this Code shall, in addition to the fine, be declared ineligible for the office to which he was elected for that term.

Elections, Conduct and Management of.

Oct. 9,
1908, p.
488, § 57.

369. (1597) (358) (265) (244) (202) Oaths of election officers.—Before entering upon their duties, inspectors and clerks must take an oath to perform their duties at the election according to law, and such oath may be administered by any person authorized by law to administer oaths, or by any one of the inspectors.

(Aikin's Digest, p. 139, § 11.)

Ib., § 58.

370. (1629) (373) (277) Challenge of voters.—Any qualified elector of the precinct in which any person proposes to vote shall have the right to challenge such person so offering to vote whom he may know or suspect is not entitled or duly qualified as an elector to vote at the precinct where he offers to vote. The challenge shall be communicated to the inspectors before the person is permitted to vote, by the sheriff or some other person in attendance and in charge of admission to the polling place, where his right to vote must be determined as provided by sections 408 and 409 (1630) of this Code.

(Feb. 21, 1893, p. 837, § 29; Mar. 3, 1875, p. 76, § 33.)

Ib., § 59.

371. (1621) Limit of polling place.—Except as electors are admitted to vote and persons to assist them as herein provided, and except the sheriff or his deputy, the inspectors, returning officer, clerks of elections, and watchers, no person shall be permitted within thirty feet of the polling place.

(Feb. 21, 1893, p. 837, § 28.)

Ib., § 60.

372. (1606) Names of candidates placed on ballots; certificate of nomination.—The probate judge of each county shall cause to be printed on the ballot to be used in their respective counties, the names of all the candidates who have been put in nomination by any caucus, convention, mass meeting, primary election, or other assembly of any political party or faction in this state, and certified in writing and filed with him not more than sixty nor less than twenty days previous to the day of election. The certificate must contain the name of each person nominated and the office for which he is nominated, and must be signed by the presiding officer and secretary of such caucus, convention, mass meeting, or other assembly, or by the chairman and secretary of the canvassing board of such primary election, and their signatures must be duly acknowledged by one or more of them before an officer authorized by law to take acknowledgments. The judge of probate shall also cause to be printed upon the ballots the name of any qualified elector who has been requested to be a candidate for any state, county, municipal, or federal office by written petition signed, in case of a candidate for a state or federal office, by at least three hundred electors, and in case of a county or

Ballots, Form and Character of—Nominee May Decline.

municipal office, by at least twenty-five electors qualified to vote in the election, to fill said office; when such petition has been filed with him not more than sixty days nor less than twenty days previous to the election. In case of a person to be voted for by the electors of the whole state or of an entire congressional district or judicial circuit or chancery division, the certificate of the nomination or the petition must be filed in the office of the secretary of state not less than thirty days before the day of election; and the secretary of state must thereupon immediately certify to the judge of probate of each county in the state in case of an officer to be voted for by the electors of the whole state, and the judges of probate of the counties composing the circuit, division, or district in case of an officer to be voted for by the electors of a circuit, division, or district, upon suitable blanks to be prepared by him for that purpose, the fact of such nomination and the name of the nominee or nominees and the office to which he or they may be nominated. In case of a person to be voted for by the electors of a senatorial district, the petition or certificate of nomination must be filed with the judge of probate of each county composing the senatorial district.

(Feb. 21, 1893, p. 837, § 16.)

ARTICLE 8.
BALLOTS, FORM AND CHARACTER OF—NOMINEE MAY DECLINE. 373-380. .
SECTION.

- 373. Ballots; how printed.
- 374. Party emblem on ballots.
- 375. Certificate of probate judge; as to emblem.
- 376. Emblems which shall not be adopted.

SECTION.

- 377. Emblems when party is divided.
- 378. Form of ballots used.
- 379. Ballots; how printed.
- 380. Ballots for independent candidates.

373. (1607) Ballots; how printed.—The ballots printed in accordance with the provisions of this chapter shall contain the names of all candidates nominated by caucus, convention, mass meeting, primary election, or other assembly of any political party or faction, or by petition of electors and certified, as provided in the preceding sections, but the name of no person shall be printed upon the ballots who may, not less than twenty days before the election, notify the judge of probate in writing, acknowledged before an officer authorized by law to take acknowledgments, that he will not accept the nomination specified in the certificate of nomination or petition of electors.

(Feb. 21, 1893, p. 837, §§ 16, 19.)

Oct. 9,
1908, p.
488, § 61.

Ballots, Form and Character of—Nominee May Decline.

Oct. 9,
1908, p.
488, § 62.

374. Party emblem on ballots.—Each political party shall, by its state party convention or state executive committee, adopt, prepare, and file with the secretary of state, at least sixty days before each election for state officers, by engraving or otherwise, at least one hundred and fifty copies of an emblem to be printed at the top of the column of such ballot assigned to such party, as a distinctive and characteristic heading thereof; and such emblem shall not be more than one inch and a half square. No party shall adopt an emblem similar in appearance to an emblem already adopted by another political party or organization, and the secretary of state shall, upon the presentation or offer to him of any emblem which in his opinion is so like any other emblem already filed as to be likely to mislead any voter, forthwith notify the committee or any officer thereof or any person sending or offering such emblem of such similarity or resemblance, and shall require such party, organization, or committee to adopt, prepare, and file another emblem. The emblem once adopted, prepared, and filed as aforesaid, shall continue the emblem of the party adopting the same until it is changed by the same or like authority as prepared, adopted, and filed the original emblem, and the changed emblem as prepared and adopted, is filed and accepted by the secretary of state as in case of the original emblem.

375. Certificate of probate judge, as to emblem.—The secretary of state shall, immediately after an emblem has been filed in his office, certify to each judge of probate in the state the fact of the adoption of said emblem by the political party filing the same, with a proof copy thereof.

376. Emblems which shall not be adopted.—The coat of arms or seal of any state or United States, or the national flag, or the likeness of any person living or dead, or religious emblem or symbol of any secret or fraternal organization or society, or the symbol of any industrial organization, or a representation of a coin or the currency of the United States, shall not be used as an emblem.

377. Emblems when party is divided.—When there is a division of any political party and each faction claims the party emblem, the judge of probate shall at once certify the fact to the chairman of the state executive committee of that party, who shall within ten days notify the judge of probate which ticket is entitled to the party emblem, and the judge of probate shall be governed by the decision of said chairman, whereupon the other factions may file with the judge of probate an emblem to be used in that election only.

378. Form of ballots used.—There shall be provided at each polling place at each election at which public officers are voted

Ballots, Form and Character of—Nominee May Decline.

for, but one form of ballot for all the candidates for public office, and every ballot shall contain the names of all candidates whose nominations for any office specified on the ballot have been duly made and not withdrawn, as provided in this chapter, together with the title of the office, arranged in tickets under the titles of the respective political parties or independent bodies as certified in the certificates of nomination.

379. (1611) Ballots; how printed.—All ballots shall be printed in black ink on clear book paper, and every such ballot printed in accordance with the provisions of this article shall contain a party device for each political party represented on the ticket. The arrangement of the ballot shall in general conform as nearly as practicable to the plan hereinafter given. The list of candidates of the several parties shall be printed in parallel and in perpendicular columns, each column to be headed by the chosen device of such party, and the party name or other designation in such order as the secretary of state may direct. The number of columns shall exceed by one the number of separate tickets of candidates to be voted for at the polling place for which the ballot is provided, and in the appropriate place the words vote for one (or two or other number, as the case may be) to indicate the number which may be elected to each office. On the right of each ballot shall be a column in which shall be printed only the titles of the office for which candidates may be voted for by the electors at the polling places for which the ballot is printed. Said column is designated as "blank column" and in such column the voting spaces shall be omitted, but in all other respects such blank column shall be a duplicate of the political party columns upon such ballot.

Oct. 9,
1903, p.
498, § 68.

(Feb. 21, 1893, p. 837, § 21.)

380. Ballots for independent candidates.—The elector may write in the column below under the title of the office the name of any person whose name is not printed upon the ballot for whom he may desire to vote. In case of nomination by independent bodies, the ballot shall be so arranged that at the right of the last column for party nomination the several tickets of the names of the independent candidates shall be printed in one or more columns according to the space required, having above each of the tickets the political or other names selected to designate such independent nomina-

ib., § 68.

ELECTIONS.

Ballots, Form and Character of—Nominee May Decline.

tions. The ballot herein provided shall be substantially in the following form, viz.:

NAMES OF OFFICERS TO BE VOTED FOR.	(Emblem) DEMOCRATIC. O	(Emblem.) REPUBLICAN. O	(Emblem.) INDEPENDENT.
STATE: Governor..... <i>Vote for One.</i>	() Wm. D. Jelks.	() J. Winston Smith.	() Richard Roe. {) John D. e. {) David Moore.
Lieutenant Govern- or..... <i>Vote for One.</i>	() R. M. Cunningham.	() Charles P. Lane.	() Samuel Jones.
CONGRESSIONAL: Representative in Congress—First Congressional District..... <i>Vote for One.</i>	() Geo. W. Taylor.	() Morris Wickersham	
PRESIDENTIAL: Electors of Presi- dent and Vice- President..... <i>Vote for Eleven.</i>	{) Wm. Ball. {) Robert Hill. {) Arthur Stewart. {) Gaston Moore. {) George Andrews. {) Henry N. Hughes. {) Paul Jones. {) Archie Jones. {) Thomas Joseph. {) Tuttle Brown. {) Wiley Harris.		
LEGISLATIVE: State Senator, First District..... <i>Vote for One.</i>	()	()	()
Representative.... <i>Vote for Two.</i>	{ }	{ }	{ }
Circuit Solicitor, Third Judicial Circuit..... <i>Vote for One.</i>	()	()	()
COUNTY: Sheriff..... <i>Vote for One.</i>	()	()	()
Judge of Probate.. <i>Vote for One.</i>	()	()	()
BEAT: Constable..... <i>Vote for One.</i>	()	()	()

ARTICLE 9.

BALLOT OR TICKET, HOW FIXED OR VOTED—CONDUCT OF ELECTIONS. 381-406.

SECTION.

381. To vote a straight party ticket.
 382. To vote for one candidate not on party ticket.
 383. To vote for two or more candidates on different tickets.
 384. To vote a split ticket.
 385. When straight ticket does not contain name of all officers.
 386. To vote for person whose name is not on ballot.
 387. To vote a blank for any officer or officers on ticket.
 388. Booths and place for holding election must be provided by sheriff.
 389. Elections must be by official ballot.
 390. Constitutional amendment; ballot for; how prepared.
 391. Ballots paid for by counties and cities.
 392. Certificates of nomination to be preserved by probate judge.

SECTION.

393. Ballots shall be bound together, etc.
 394. Number of ballots per voter.
 395. Municipal election; how provided for.
 396. Polls; how long open.
 397. Proclamation; polls open.
 398. Elector must vote in county and precinct of residence.
 399. Regulations as to voting.
 400. Electors who may have assistance of ticket fixer to prepare ballot.
 401. Candidate shall not act as assistant or ticket fixer.
 402. Spoiled ballot.
 403. Ballot folded; name of voter called by inspector.
 404. Deposit of ballot.
 405. Instruction cards to voters.
 406. Blank forms and stationery for elections.

381. (1622) To vote a straight party ticket.—If the elector desires to vote a straight ticket, that is, for each and every candidate for one party for whatever office nominated, he shall mark a (x) cross mark in the circle under the name of the party at the head of the ticket. Oct. 9,
1908, p.
488, § 64.

(Aikin's Digest, p. 139, § 12; Feb. 21, 1893, p. 837, § 32.) Where the cross mark is made on right hand side of ticket beside name of candidate it should be rejected.—Black v. Pate, 130 Ala. 514 (30 So. 434).

382. To vote for one candidate not on party ticket.—When only one candidate is to be elected to any office and the elector desires to vote for a candidate not on his party ticket, he may make a (x) before the name of the candidate for whom he desires to vote on the other ticket. Ib.

383. To vote for two or more candidates on different tickets. Ib.
 —When two or more candidates are to be elected to the same office and he desires to vote for candidates on different tickets for such office, he may make a (x) mark before the names of the candidates for whom he desires to vote on the other ticket, and must also erase an equal number of names of candidates on his party ticket for the same office for whom he does not desire to vote.

384. To vote a split ticket.—If the elector desires to vote a split ticket, that is, for candidates of different parties, he Ib.

Ballot or Ticket, How Fixed or Voted—Conduct of Elections.

may make a (x) mark in the voting space before the name of each candidate for whom he desires to vote on whatever ticket he may be.

Oct. 9,
1908, p.
438, § 64.

385. When straight ticket does not contain name of all officers.—If the ticket marked in the circle for a straight ticket does not contain the names of candidates for all offices for which the elector may vote, he may vote for candidates for such offices so omitted by making a (x) mark before the names of candidates for such offices on other tickets, or by writing the names, if they are not printed, upon the ballot in the blank column under the title of the office.

386. To vote for person whose name is not on ballot.—If the elector desires to vote for any person whose name does not appear upon the ballot, he can so vote by writing the name in the proper place on the blank column.

387. To vote a blank for any officer or officers on ticket.—The elector can vote blank for any office on his party ticket by making a cross (x) mark in the circle at the top of the ticket and striking out with pencil or pen the name or names of candidates he does not desire to vote for on the ticket.

388. (1616) Booths and place for holding election must be provided by sheriff.—The sheriff of each county, at the expense of the county, or in case of a municipal election, the mayor or other chief executive officer, at the expense of the municipality, shall provide at each polling place in all municipalities of over three thousand inhabitants, a room or covered enclosure, and in such room or covered enclosure shall provide booths or compartments, one booth or compartment for each one hundred or fraction of one hundred over fifty electors registered in the ward or wards in such municipality for that election, and shall furnish each booth or compartment with a shelf or table for the convenience of the electors in the preparation of their ballots. Each booth or compartment shall be so arranged that it will be impossible for one elector at a shelf or table in one compartment to see an elector at a shelf or table in another compartment in the act of marking his ballot. Each voting shelf or table shall be kept supplied with conveniences for marking the ballots. In all other voting places other than in municipalities of over three thousand inhabitants no booths or compartments shall be required.

(Feb. 21, 1893, p. 837, § 24.)

389. (1605) Elections must be by official ballot.—In all elections held in this state on any subject which may be submitted by law to the vote of the people, and for all or any state, county, district, or municipal officers, the voting shall be by official ballot printed and distributed as provided in this chap-

Ib., § 66.

Ballot or Ticket, How Fixed or Voted—Conduct of Elections.

ter, except when the form of the ballot is otherwise prescribed by law, and no ballot shall be received or counted in any election except it be provided as prescribed by law; but this section shall not apply to elections held for trustees of public schools, or elections to establish or abolish stock law districts or other local elections which are otherwise specifically provided for.

(Aikin's Digest, p. 138, § 3; Feb. 21, 1893, p. 837, § 14.) Origin and history of statute.—Toulmin's Digest, pp. 266-288. Any person having a requisite knowledge may testify as to how another voted.—Black v. Pate, 130 Ala. 514 (30 So. 434). The secrecy of the ballot cannot be violated on contest, it is personal to the voter, who may waive it if he desires.—Black v. Pate, 130 Ala. 514 (30 So. 434).

390. (1608) Constitutional amendment; ballot for, how prepared.—Whenever a constitutional amendment is submitted to a vote of the qualified electors the substance or subject matter of each proposed amendment shall be so printed that the nature thereof shall be clearly indicated. Following each proposed amendment or other public measure on the ballot shall be printed the word "Yes," and immediately under that shall be printed the word "No." The choice of the electors shall be indicated by a cross mark made by him or under his direction opposite the words expressing his desire.

Oct. 9,
1908, p.
438, § 68.

(Feb. 21, 1893, p. 837, § 20.)

391. (1609) Ballots paid for by counties and cities.—The printing and delivery of the ballots and cards of instructions to voters shall in municipal elections be paid for by the several cities and towns, and in all other elections by the several counties respectively.

Ib., § 67.

(Feb. 21, 1893, p. 837, § 15.)

392. (1610) Certificates of nomination to be preserved by probate judge.—The probate judge shall cause to be preserved all certificates and petitions of nomination filed in his office under the provisions of this chapter for six months after the election for which such nominations are made.

Ib., § 68.

(Feb. 21, 1893, p. 837, § 18.)

393. (1612) Ballots shall be bound together, etc.—All ballots for use in each precinct shall be fastened together in convenient numbers in books or blocks in such manner that each ballot may be detached and removed separately. Each ballot shall have attached to it a stub of sufficient size to enable one of the inspectors to write or stamp his name or initials thereon, and so attached to the ballot that when the same is

Ib., § 69.

Ballot or Ticket, How Fixed or Voted—Conduct of Elections.

folded the stub can be detached therefrom without injury to the ballot or exposing the contents thereof.

(Feb. 21, 1893, p. 837, § 22.)

Oct. 9,
1908, p.
438, § 70.

394. (1613) Number of ballots per voter.—There shall be provided for each voting place at least one hundred ballots for each fifty registered electors at that place.

(Feb. 21, 1893, p. 837, § 23.)

Ib., § 71.

395. (1615) Municipal elections; how provided for.—In case of any municipal election held at a time different from a general state or federal election, the duties herein prescribed for the judge of probate in respect to receiving nominations, printing, and distributing ballots and cards of instructions shall be discharged under the same sanctions by the mayor or other chief executive officer of the city or town.

(Feb. 21, 1893, p. 837, § 47.)

Ib., § 72.

396. (1618) (366) (271) Polls; how long open.—The polls must be opened at each place of voting, in each precinct, between the hours of eight and nine o'clock in the morning and kept open without intermission or adjournment until the hour of five in the afternoon, and no longer; provided, that in cities and towns of over five thousand inhabitants the polls shall remain open until six o'clock in the evening, and no longer.

(Aikin's Digest, p. 138, § 7; p. 140, § 24; Mar. 3, 1875, p. 76, § 27.)

Ib., § 73.

397. (1619) (367) (272) Proclamation; polls open.—The inspectors, before they commence receiving ballots, must cause it to be proclaimed aloud at the place of voting that the election is opened.

(Mar. 3, 1875, p. 76, § 28.)

Ib., § 74.

398. (1620) (368) (273) Elector must vote in county and precinct of residence.—At all elections by the people of this state the elector must vote in the county and precinct of his residence and nowhere else, and must have registered as provided in this chapter; and if any elector attempts to vote in any precinct other than that of his residence, his vote must be rejected, except as provided in section 290 (1556) of this Code.

(Mar. 3, 1875, p. 76, § 29.)

Ib., § 75.

399. (1622) Regulations as to voting.—Each elector, upon entering the polling place, shall be given one ballot by the inspectors. Before delivering the ballot to the elector at least one of the inspectors shall write or shall have already written

Ballot or Ticket, How Fixed or Voted—Conduct of Elections.

his name, or the initials of his name, on the stub attached to the ballot.

400. (1623, 1627) **Electors who may have assistance of ticket fixer to prepare ballot.**—Any elector applying to vote who shall state to any of the inspectors that by reason of his inability to write the English language, or by reason of blindness or the loss of the use of his hand or hands, he is unable to prepare his ballot, may have the assistance of any person he may select. In such case said elector must remain within the polling place and the inspector shall send for the person selected; if the person cannot be found, then any other person such elector may select. An elector who prepares his ballot alone or with the assistance of another shall be permitted to prepare it at any point in the polling place. Any person called in to assist an elector in preparing his ballot, shall retire when the elector retires. No more than ten electors shall be allowed in the polling place at the same time. No elector shall remain more than five minutes in, nor shall he be permitted to take his ballot from the polling place. Provided, that in cities or towns of more than three thousand inhabitants, each elector on receiving the ballot shall forthwith and without leaving the polling place retire alone to one of the booths or compartments provided for that purpose, and there prepare his ballot in the manner herein provided. Any elector applying to vote in such city or town who shall state under oath to any of the inspectors, which said oath may be administered by any one of the inspectors, that by reason of his inability to write the English language, or by reason of blindness or the loss of the use of his hand or hands, he is unable to prepare his ballot, may have the assistance of any person he may select. In such case said elector must remain within the polling place and the inspector shall send for the person selected. If the person cannot be found, then any other person such elector may select, and thereupon said elector and the person so selected shall retire to a booth or compartment, and there the person so selected shall render said elector all such assistance in the preparation of said ballot as he may require, so that the same may be voted for the candidate of his choice, in the manner herein provided. In all other respects, said elector shall vote as is required of other electors.

Oct. 9,
1908, p.
438, § 76.

(Feb. 21, 1893, p. 837, §§ 30, 33, 34.)

401. **Candidate shall not act as assistant or ticket fixer.**—1b. No candidate for election shall act as assistant to any elector in the preparation of his ballot. When all the booths or compartments are occupied, and other electors are waiting to vote, no elector shall occupy a booth or compartment for a longer

Ballot or Ticket, How Fixed or Voted—Conduct of Elections.

time than five minutes. No elector shall be allowed to occupy a booth or compartment already occupied by another, nor speak or converse with any one except as herein provided while in the polling place. After having voted, or declined or failed to vote within five minutes, the elector shall immediately withdraw from the polling place and go beyond the prohibited distance, and shall not enter the polling place again.

Oct. 9,
1903, p.
488, § 76.

402. (1624) Spoiled ballot.—Any elector who shall by accident or mistake spoil a ballot so that he cannot conveniently or safely vote the same may return it to the inspectors and may receive another in lieu thereof, which ballot must be voted or returned to the inspectors by such elector.

(Feb. 21, 1893, p. 837, § 40.)

Ib., § 77.

403. (1625) (371) (275) Ballot folded; name of voter called by inspector.—After preparing his ballot the elector shall fold the same so as to conceal the face thereof and show the stub thereto attached with the name or the initial of the inspector, and hand it to the receiving inspector. The inspector must receive the ballot folded, and call the name of the elector audibly and distinctly, and the name of each elector whose ballot has been received must immediately be taken down by the clerks on separate lists, which shall be headed "names of voters" and called "poll lists," and the number of the order in which such elector votes must at the same time be entered by each clerk against his name, the first elector voting being numbered one, the second two, and so on, to the last elector voting.

(Aikin's Digest, p. 139, § 12; Feb. 21, 1893, p. 837, § 41; Mar. 7, 1876, p. 103; Feb. 8, 1879, p. 78.) Constitutional and statutory provisions under the Code of 1886 construed.—*Taliaferro v. Lee*, 97 Ala. 92 (13 So. 125); *Taylor v. Kolb*, 100 Ala. 603 (13 So. 779).

Ib., § 78.

404. (1626) (372) (276) Deposit of ballot.—The inspector receiving the ballot shall detach the stub and pass the ballot to each of the other inspectors, and it must then, without being opened or examined, be deposited in the proper ballot box, after being numbered to correspond with poll list.

(Feb. 21, 1893, p. 837, § 41; Feb. 8, 1879, p. 78; Mar. 3, 1875, p. 76, § 32.)

Statutory provision requiring ballots to be numbered is not mandatory; may be counted, though not numbered.—*Montgomery v. Henry*, 144 Ala. 629 (39 So. 507).

Ib., § 79.

405. (1617) Instruction cards to voters.—The judge of probate shall cause to be printed in large type cards of instructions for the guidance of electors in preparing their ballots. He shall furnish to the sheriff three, or more if necessary, of such cards for each precinct, and the sheriff shall post one of such cards in each booth or compartment for the preparation

Challenge of Voter.

of ballots, and not less than three in prominent places elsewhere about the outside of the polling place on the day of the election. Such cards shall be printed in large, clear type and shall contain full instructions to electors as to what should be done; first, to obtain ballots for voting; second, to prepare the ballot for deposit in the ballot box; third, to obtain a new ballot in place of one accidentally spoiled; fourth, to instruct as to the right and manner of obtaining a watcher for each political party having candidates to be voted for.

(Feb. 21, 1893, p. 837, § 26.)

406. Blank forms and stationery for elections.—The judge of probate for each county shall have printed, at the expense of the county, ballots, blank poll lists, certificates of results, oaths, and any other stationery or blank forms necessary in the conduct of elections. The judge of probate shall also superintend and insure the delivery by the sheriff to the inspectors of the election of the ballots, blank poll lists, certificates of results, oaths, and other stationery or blank forms necessary in the conduct of elections.

Oct. 9,
1908, p.
438, § 80.

ARTICLE 10.

CHALLENGE OF VOTER. 407-411.

SECTION.

407. Challenge of voter.
408. Oath of challenged voter or elector.
409. Oath to establish identity of voter or elector.

SECTION.

410. Vote rejected if voter refuses to take oath.
411. Warning of false oath; penalty for.

407. Challenge of voters.—The inspectors shall select one of their number, on opening the polls, to act as a challenger, and the challenger shall ascertain if each person presenting himself to vote has registered and paid all poll taxes due, such finding to be from an examination of the list furnished by the judge of probate. If the name of the person does not appear on such list the challenger shall challenge said voter, unless he shows that he is a qualified voter in that precinct.

Oct. 9,
1908, p.
438, § 81.

408. (1630) (374) (278) Oath of challenged voter or elector.—When any person offering to vote is challenged by an inspector or by any qualified elector, before such person shall be allowed to vote, he shall take and subscribe an oath which one of the inspectors shall tender and administer to him, and which shall be in the following form:

Ib., § 82.

“State of Alabama, County of _____.

“I do solemnly swear (or affirm) that I am a duly qualified elector under the constitution and laws of the State of Ala-

ELECTIONS.

Challenge of Voter.

bama, and that I have resided in the State of Alabama two years next preceding this election, twelve months in this county, and have actually resided three months in this precinct or ward next preceding this day (or in case of change of residence provided for by section 178 of the constitution, have resided in this state two years next preceding this election, twelve months in the county, and within three months next preceding the election have removed from this ward to another precinct or ward in this county, incorporated town, or city, and would have been entitled to vote but for such removal), all immediately preceding this election, and that I am twenty-one years of age or upwards, and that I have not voted on this day at any general or special election at any place of voting, and that I have not been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery, or any crime punishable by law with imprisonment in the penitentiary; that I have not, since the 28th day of November, 1901, been convicted of embezzlement, receiving stolen property, obtaining property or money under false pretenses, subornation of perjury, forgery, assault and battery on wife, living in adultery, or any crime punishable by imprisonment in the penitentiary, or of any infamous crime, or crime involving moral turpitude, or of being a vagrant or tramp, or of selling or offering to sell my vote or the vote of another, or buying or offering to buy the vote of another, or of making or offering to make false returns in any election by the people or in any primary election to procure the nomination or election of any person to office, or of suborning any witness or registrar, to secure the registration of any elector; that I have been duly registered and have paid all poll taxes due by me at the time prescribed by law (or am exempt by law from the payment of poll taxes), so help me God."

(Mar. 6, 1876, p. 103.)

Oct. 9,
1908, p.
488, § 82.

409. (1630) (374) (278) Oath to establish identity of voter or elector.—In addition to the oath provided for in the preceding section, if the person so challenged is not personally known to one of the inspectors to have the qualifications required by law, then one of them shall require such person, before he shall be allowed to vote, to prove his identity and residence in the state, county, and precinct in which he offers to vote by the oath of some elector personally known to some one of the inspectors to be a qualified elector, which oath shall be administered by one of the inspectors, and be in the following form:

"State of Alabama, County of _____.

"I, _____, do solemnly swear (or affirm) that I have known (here insert the name of the person offering to vote)

Challenge of Voter.

for the last two years next preceding this election, and that he has been a resident of this state for said time, twelve months in this county, and he actually resided in this precinct or ward for the last three months preceding this election (or in case of change of residence provided for by section 178 of the constitution, he has resided in this state for two years next preceding this election, twelve months in this county, and within three months next preceding the date of the election he removed from this precinct or ward to another precinct or ward in this county, incorporated town, or city, and would have been entitled to vote but for such removal), all immediately preceding this election; and I believe that he is twenty-one years of age or upwards, and that he has not voted before on this day at any general or special election; so help me God." And upon such oath being duly taken and subscribed, the ballot of the person offering to vote, if he has registered, must be received and deposited as other ballots of qualified electors, and the inspectors shall file all the oaths so taken and subscribed, and when the election is closed, forward them in a sealed package to the judge of probate, who shall lay them before the next grand jury sitting for the county.

(Mar. 6, 1876, p. 103.)

410. (1632) (376) (280) Vote rejected if voter refuses to take oath.—If the person challenged refuses to take the oath, and if he fails to prove his identity and residence when and in the manner required, his vote shall be rejected, and the ballot, marked with his name, shall be laid aside by the inspectors.

Oct. 9,
1908, p.
488, § 84.

(Mar. 6, 1876, p. 103; Mar. 3, 1875, p. 76, § 37.)

411. (1631) (375) (279) Warning of false oath; penalty for. —When any person offering to vote at any election in this state has been challenged, before administering the oath prescribed, one of the inspectors shall inform such person that if he takes the oath willfully and falsely, he is guilty of perjury, and on conviction, may be imprisoned in the penitentiary for not less than two years.

Ib., § 88.

(Mar. 6, 1876, p. 103; Mar 3, 1875, p. 76, §§ 35, 37.)

ELECTIONS.

Sheriff Must Preserve Order—Counting Votes by Inspectors.

ARTICLE 11.

SHERIFF MUST PRESERVE ORDER AT ELECTIONS. 412.

Oct. 9,
1908, p.
488, § 86.

412. (1633) (377) (281) Sheriff to preserve order at elections.—The sheriff of each county shall, on each day of election, be present in person or by deputy at all election precincts where elections are held in the county, and he shall preserve good order; and in order that every elector who desires to vote may do so without interference or interruption, shall maintain good order, such sheriff or his deputy may especially depute a sufficient force to act at all election precincts on the day of any election that he may deem necessary, and in case of necessity, may raise a posse comitatus to put down all riots or attempted riots or disturbances.

(Aikin's Digest, p. 141, § 25; Mar. 3, 1875, p. 76, § 95, as amended Jan. 20, 1877, p. 122, § 1; Feb. 21, 1893, p. 837, § 46.)

ARTICLE 12.

COUNTING OF VOTES BY INSPECTORS. 413-419.

SECTION.

- 413. Count of votes.
- 414. Count of votes; by whom and how made.
- 415. Count of votes to be sealed, certified, and delivered to sheriff.

SECTION.

- 416. Ballots, when counted, labeled, sealed, delivered to returning officer.
- 417. Ballots kept by sheriff six months after election.
- 418. Election returns; time of making.
- 419. Pay of election officers.

Oct. 9,
1908, p.
488, § 86.

413. (1637) (381) (285) Count of votes.—All inspectors of elections in the election precincts shall, immediately on the closing of the polls, count the votes polled, and no votes shall be counted until the polls are closed.

(Aikin's Digest, p. 140, § 19; Mar. 3, 1875, p. 76, § 40.) Power of inspectors, canvass by board, construction of town charter. Board of election supervisors.—Wade v. Oates, 112 Ala. 325 (20 So. 495). Constitution and statutes under Code of 1886 construed.—Taliaferro v. Lee, 97 Ala. 92 (13 So. 125). Contest in elections as to county site under special election law.—Leigh v. O'Bannon, 69 Ala. 261.

Ib., § 87.

414. (1638) (382) (286) (264) (222) Count of votes; by whom and how made.—In counting, the returning officer or one of the inspectors, must take the ballots, one by one, from the box in which they have been deposited, at the same time reading aloud the names of the persons voted for, and the office for which such persons are voted for; they must separately keep a calculation of the number of votes each person receives and for what office he receives them; if the elector has marked

Counting of Votes by Inspectors.

more names than there are persons to be elected to an office, or if for any reason it is impossible to determine the elector's choice for any office to be filled, his ballot shall not be counted for such office, but this shall not vitiate the ballot so far as properly marked, nor shall any ballot be rejected for any technical error which does not make it impossible to determine the elector's choice, and nothing in the election law shall be construed so as to prevent any elector from voting for any qualified person other than those whose names are printed on the ballot.

(Feb. 21, 1893, p. 837, § 42; Feb. 13, 1879, p. 73.) How vote counted, when ballots improperly marked.—*Black v. Pate*, 130 Ala. 514 (30 So. 434). Statutory provision requiring ballots to be numbered is not mandatory; may be counted, though not numbered.—*Montgomery v. Henry*, 144 Ala. 629 (39 So. 507).

415. (1639) (383) (287) Count of votes to be sealed, certified, and delivered to sheriff.—As soon as the ballots are all counted, the inspectors must ascertain the number of votes received for each person and for what office, and must make a statement of the same in writing, which statement must be signed by them; they must also certify in writing on one of the poll lists, that such poll list is the poll list of the election precinct at which they were inspectors, the day and year on which such election was held, and for what offices, which certificates must be signed by them; and such statement of the poll lists and votes, thus certified, must be sealed up, together with a list of the registered voters in such precinct at such election on such day, in a box to be furnished by the sheriff of the county, one or more for each precinct, and to consist of wood, tin, or sheet iron, and securely fastened by locks, directed to the sheriff of the county, if there be one, and if none, then to the person discharging the duties of such office, and immediately deliver the same to the returning officer of the precinct.

Oct. 9,
1908, p.
488, § 88.

(*Aikin's Digest*, p. 139, § 13; Mar. 3, 1875, p. 76, § 40.)

416. (1640) (384) (288) Ballots, when counted, labeled, sealed, delivered to returning officer.—The inspectors must count the ballots deposited in the box, and as soon as all the ballots contained in the box are counted, the inspectors shall roll up the ballots so counted and label the same so as to show for what officer or officers the ballots contained therein were received, and when so rolled up, and labeled, shall be securely sealed; the rejected ballots, if any, shall also be rolled up and labeled as rejected ballots and sealed up as the other parcels; and the packages so sealed up and labeled, together with one poll list, shall also be securely sealed up, shall be returned to and securely fastened up in the box from which such ballots were taken and counted, and which shall also be securely

Ib., § 89.

Canvassing Returns of Elections for County.

sealed and labeled, so as to show the nature of its contents, and shall be delivered to the returning officer, who shall deliver them to the sheriff.

(Mar. 6, 1866, p. 103.) Election laws and mode of contesting under Code of 1886 construed.—Parks v. Owen, 100 Ala. 634 (13 So. 756).

Oct. 9,
1903, p.
488, § 89.

417. Ballots kept by sheriff six months after election.—The sheriff shall keep the ballots six months, and then the packages shall be taken out of the box, without opening or unsealing the packages, and destroyed, unless within six months the sheriff having them in custody is notified that the election of some officer for which the election was held will be contested, in which case he must preserve the box containing the ballots cast for such contestant until such contest is finally determined, or until such box is demanded by some legally constituted custodian during such contest.

Ib., § 90.

418. (1641) (385) (289) Election returns; time of making.—The statement of votes and the poll list delivered to the returning officer of the precinct must be delivered to the returning officer of the county within forty-eight hours after the election.

(Jan. 27, 1876, p. 110.)

Ib., § 91.

419. (1643) (386) (290) Pay of election officers.—The returning officer, the inspectors and clerks, shall each be entitled to two dollars, and the returning officer, in addition, to five cents a mile in going to the court house and returning to the place of holding the election; the several claims to be paid out of the county treasury, on proper proof of the service rendered, to be preferred claims, payable from the money in the treasury not specially otherwise appropriated.

(Jan. 27, 1876, p. 110, as amended Jan. 31, 1877, p. 119, § 1; Feb. 10, 1881, p. 39.)

ARTICLE 13.

CANVASSING RETURNS OF ELECTIONS FOR COUNTY. 420, 421.

SECTION.

420. Canvassing votes after an election; time and manner of.

SECTION.

421. Declaration of election results; when and how made.

Ib., § 92.

420. (1644) (387) (291) Canvassing votes after an election; time and manner of.—Friday next after the election, at the hour of twelve meridian, the returning officer of the county, in person or by deputy, and the judge of probate and the clerk of the circuit court shall assemble at the courthouse; and if there is no such judge or clerk, or if either of them fails to attend, or if either of them is interested by reason of having been a candidate at such election, his place must be supplied

Canvassing Returns of Elections for County.

by a respectable freeholder or householder of the county, appointed by the board hereinbefore provided for the appointing of the inspectors in the various precincts for said election, at the time of appointing the election inspectors, and if said appointing board fail to provide for such member or members, or if any member or members as herein provided should fail to attend at the time and place herein mentioned, the returning officer shall supply such deficiency by a respectable freeholder or householder of the county who is a qualified elector; and if all such officers are of the same political party, then the returning officer of the county must summon three reputable persons, resident householders or freeholders of the county, members of the opposite political party who are qualified electors, to attend at such time and place; and in the presence of such other persons as choose to attend, the board shall make a correct statement from the returns of the votes from the several precincts of the county of the whole number of votes given therein for each officer, and the person to whom such votes were given.

(Mar. 3, 1875, p. 76, § 44, as amended Mar. 6, 1876, p. 103, § 1, and Jan. 20, 1877, p. 121, § 1.) Regularity of congressional elections under Code of 1876 construed.—*Lewis v. Bruton*, 74 Ala. 320. Municipal election, duty of board in counting vote; powers of canvassing board; registration lists.—*Hudmon v. Slaughter*, 70 Ala. 551.; *Leigh v. State*, 69 Ala. 261; *State v. Hamil*, 97 Ala. 107 (11 So. 892); *State v. Cobb*, 108 Ala. 9 (18 So. 532).

421. (1645) (388) (292) Declaration of election results; when and how made.—Immediately after ascertaining the result of an election of county officers, including members of the house of representatives of the legislature, the board of supervisors must make in writing a public declaration of the result, stating the name of each officer elected and the office to which he was elected. The declaration must be signed by at least two of the supervisors and must be published by filing the original in the office of the judge of probate and by posting a copy thereof at the courthouse door and at three other public places in the county. Oct. 9,
1903, p.
438, § 98.

(Mar. 3, 1875, p. 76, § 44, amended Mar. 6, 1876, p. 103, § 1, and Jan. 20, 1877, p. 121, § 1; Feb. 10, 1881, p. 122.)

ARTICLE 14.

CANVASS OF RETURNS AND DECLARATION OF RESULT FOR STATE OFFICERS.
422-427.

SECTION.

422. Canvass of election returns by state officials.

423. Governor proclaims result of election.

424. Returns of election of state officers; how certified.

SECTION.

425. Results of election open to inspection.

426. Certificates of election to members of congress and legislators.

427. Legislators, election of; how determined.

Oct. 9,
1903, p.
423, § 97.

422. (1647) (390) Canvass of election returns by state officials.—All returns of elections required by law to be sent to the secretary of state must, within fifteen days after an election, be opened and counted in the presence of the governor, secretary of state, and attorney-general, or two of them.

(Feb. 10, 1881, p. 122.)

Ib.

423. (1647) (390) Governor proclaims result of election.—The governor must give notice by proclamation published in some newspaper at the seat of government of the result of the election as ascertained in the preceding section, except as to officers provided for in section 421 and in the succeeding section.

(Feb. 10, 1881, p. 122.)

Ib., § 98.

424. (1648) (391) (292) Returns of election of state officers; how certified.—The certificates of the board of supervisors as to the election for governor, lieutenant-governor, attorney-general, state auditor, secretary of state, state treasurer, superintendent of education, and commissioner of agriculture and industries, must be by the judge of probate forwarded to the governor for the speaker of the house at least ten days before the time fixed for the next meeting of the legislature, and must be by the governor delivered unopened to the speaker on his election.

(Mar. 3, 1875, p. 76, § 44, as amended Mar. 6, 1876, p. 103, § 1, and Jan. 20, 1877, p. 121, § 1.)

Ib., § 99.

425. (1649) (392) (293) Results of election open to inspection.—After having ascertained the result of an election, made declarations thereof, and made the certificates provided for in sections 424 (1648) and 435 (1646) of this Code, the board of supervisors must file the lists of the registered voters in the office of the judge of probate, which shall be open to the inspection of any elector of the county.

(Mar. 3, 1875, p. 76, § 44, as amended Mar. 6, 1876, p. 103, § 1, and Jan. 20, 1877, p. 121, § 1.)

Tie, How Decided.

426. (1650) (393) (294) Certificates of election to members of congress and legislators.—The secretary of state shall, within ten days after receiving the returns of election from the judge of probate of each county furnish, from a count of the actual vote cast, as the same appears by the returns certified to him, certificates of election to members of the legislature and to members of congress. Oct. 9,
1908, p.
488, § 100.

(Mar. 3, 1875, p. 76, § 47.)

427. (1651) (394) (295) Legislators, election of; how determined.—The speaker of the house of representatives shall, within the first five days of the session of the legislature, in the presence of a majority of the members of the legislature, open the returns furnished him under section 424 (1648) of this Code, ascertain and proclaim the result of such election, after which such returns shall be filed and kept in the office of the secretary of state, subject to the inspection of any elector of the state. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more shall have an equal and the highest number of votes for the same office, the legislature, by joint vote, without delay, shall choose one of said persons for said office. Ib., § 101.

The duty of the speaker and of the joint conventions, under this section shall be purely ministerial. Const.,
§ 115.

(Mar. 3, 1875, p. 76, § 45, amended Jan. 20, 1877, p. 121, § 1.)

ARTICLE 15.

TIE, HOW DECIDED. 428-432.

SECTION.

428. Tie vote; how decided.

429. Probate judge failing to perform duties, circuit judge must do so.

SECTION.

430. Poll tax, when due, when delinquent; collection of.

431. Precinct; meaning of.

432. Primary elections included in general law.

428. (1652) (395) (297) Tie vote; how decided.—In all elections where there is a tie between the two highest candidates for the same office, for all county or precinct officers, it shall be decided by the sheriff of the county; and in case the office of circuit judge, chancellor, senator, representative, or any state officer not otherwise provided for in the preceding sections, the secretary of state shall, in the presence of the governor, and such other electors as may choose to be present, decide the tie by lot. Oct. 9,
1908, p.
488, § 102.

(Mar. 3, 1875, p. 76, § 94.)

429. (1614) Probate judge failing to perform duties, circuit judge must do so.—In the event the judge of probate of any Ib., § 108.

Penalty for Failing to Make Returns.

county is unable, or neglects, fails, or refuses to perform the duties herein prescribed, the duties, responsibilities, penalty, and authority of the judge of probate shall devolve upon the judge of the circuit court of the county.

(Feb. 21, 1893, p. 837, § 45.)

Oct. 9,
1908, p.
438, § 104.

430. Poll tax, when due, when delinquent; collection of.—The poll tax mentioned in this chapter is one dollar and fifty cents upon each male inhabitant of the state over the age of twenty-one years, and under the age of forty-five years, who is not exempt by law. Such poll tax shall become due and payable on the first day of October in each year, and become delinquent on the first day of the next succeeding February, but no legal process nor any fee or commission shall be allowed for the collection thereof.

Ib., § 105½

431. Precinct; meaning of.—Wherever the word “precinct” is used in this chapter it shall include ward or wards in any incorporated towns and cities.

Ib., § 106.

432. Primary elections included in general law.—All the provisions of this chapter shall apply to all primary elections and all elections by counties or municipalities held in this state, except in cases where the provisions hereof are inconsistent or in conflict with the provisions of a law governing special primary, county, or municipal elections.

ARTICLE 16.

PENALTY FOR FAILING TO MAKE RETURNS. 433, 434.

SECTION.

433. Penalty declared.

SECTION.

434. Notice to the solicitor.

433. (1665) (448) (3372) (406) (357) Penalty declared.—If any officer required to make returns of any election to the secretary of state or to the speaker of the house of representatives fails to make such returns within the time prescribed, he forfeits to the state five hundred dollars, recoverable by motion to be made by the solicitor of the proper circuit, in the name of the state, in the circuit court of the county of such returning officer, upon three days' notice of such motion; and the certificate of the secretary of state, or of the speaker of the house of representatives, as the case may be, setting forth that such return has not been received, is presumptive evidence of the failure of such officer to make such return.

(Aikin's Digest, p. 141, § 31; Feb. 19, 1867, p. 623; Feb. 19, 1867, p. 626; Dec. 7, 1866, p. 84.)

434. (1666) (449) (3373) (407) (358) Notice to the solicitor.—Whenever the return of any officer, required to be made

Elections on Amendments to the Constitution.

to the secretary of state or to the speaker of the house of representatives, is not received within the time prescribed, the secretary of state or speaker of the house of representatives must give notice thereof to the solicitor of the proper circuit and furnish him with the certificate specified in the preceding section.

ARTICLE 17.

CERTIFICATE OF ELECTION. 435.

435. (1646) (389) (292) Certificate of votes delivered to probate judge of each county to be forwarded.—The board of supervisors must, as soon as they have ascertained the result of an election, make on blanks furnished by the secretary of state certificates stating the exact number of votes cast in the county for each person voted for, and the office for which such person was voted for, and file the certificates with the judge of probate, who must immediately forward such certificates as to all members of the legislature and to all civil officers who are to be commissioned by the governor, except the attorney-general, state auditor, secretary of state, state treasurer, superintendent of education, and commissioner of agriculture and industries, to the secretary of state.

Oct. 9,
1908, p.
488, § 96.

(Mar. 3, 1875, p. 76, § 44, amended Mar. 6, 1876, p. 103, § 1, and Jan. 20, 1877, p. 121, § 1.)

ARTICLE 18.

ELECTIONS ON AMENDMENTS TO THE CONSTITUTION. 436-438.

SECTION.

436. Counting and returning the vote on constitutional amendment.

SECTION.

437. Returns made to secretary of state.
438. Returns counted; result proclaimed.

436. (1662) (445) (352) (401) (352) Counting and returning the vote on constitutional amendment.—The vote on an amendment proposed to the constitution shall be counted and return made thereof as is counted and returned the vote for members of the legislature, the amendments, if more than one, being designated by substantially the language used to designate them on the official ballot.

437. (1663) (446) (354) (403) (354) Returns made to secretary of state.—The board of supervisors shall ascertain the number of votes given in their respective counties for and against the proposed amendment when ascertaining the vote given for officers; the returning officers of such county shall thereupon make return of such vote to the secretary of state

ELECTIONS.

• Special Elections.

immediately, together with a certificate, prepared from the poll lists, of the total number of qualified electors in said county who voted at such election.

Const.,
§ § 234,
235.

438. (1664) (447) Returns counted; result proclaimed.—

The secretary of state shall, in the presence of the governor and attorney general, or one of them, open such certificates and therefrom ascertain whether a majority of all the qualified electors of the state who voted at such election voted in favor of such amendment or amendments; and the result of said election shall be made known by proclamation of the governor.

ARTICLE 19.

SPECIAL ELECTIONS. 439-445.

SECTION.

- 439. Special elections; when and for what offices held.
- 440. Day for holding special elections.
- 441. Special elections ordered by governor.
- 442. Proclamation of election for congress or state officers.

SECTION.

- 443. Sheriff to give notice of elections in his county.
- 444. Sheriff must notify probate judge and clerk.
- 445. How conducted, and certificates given.

439. (1598) (359) (249) Special elections; when and for what offices held.—Special elections are to be held in the following cases:

1. When a vacancy occurs in the office of senator or representative in the legislature, when the legislature will be in session prior to the next general election for that office.

2. When a vacancy occurs in the office of representative in the congress of the United States, by which the state may be deprived of its full representation at any time congress will be in session prior to the next general election for that office.

3. Whenever any general or special election for members of the legislature, or for representatives in congress, is not held.

4. When any vacancy occurs in any state or county office filled by election of the people, not otherwise provided for by the constitution or laws of this state.

5. In such other cases as are or may be provided for by law.

(Mar. 3, 1875, p. 76, § 9.)

440. (1599) (360) (250) Day for holding special elections.

—All special elections shall be held on such day as the governor may direct.

(Mar. 3, 1875, p. 76, § 10.)

Special Elections.

441. (1600) (361) (266) (233) (191) Special elections ordered by governor.—All special elections provided for by this article are to be ordered by the governor, who must issue writs of election, directed to the sheriffs of the counties in which such election is required to be held; and must specify therein the district or county in which, and the day on which, such election is to be held; the cause and object of the same; the name of the person in whose office the vacancy has occurred; and in all cases in which a special election is directed in a district composed of more than one county, such election must be directed to be held on the same day in each county.

(Mar. 3, 1875, p. 76, § 11.)

442. (1601) (362) (267) Proclamation of election for congress or state officers.—The governor must give notice of any special election for representatives in congress, or state officers, by proclamation.

(Mar. 3, 1875, p. 76, § 12.)

443. (1602) (363) (268) Sheriff to give notice of elections in his county.—Whenever the sheriff of any county receives a writ of election directing a special election to be held, or receives notice of a special election for representatives in congress, or for any state or county officers, such sheriff must immediately give notice by proclamation of the time, place, and object of such election as provided by law.

(Mar. 3, 1875, p. 76, § 13.)

444. (1603) (364) (269) Sheriff must notify probate judge and clerk.—When any special election is ordered by the governor, the sheriffs of the counties in which such election is to be held must, within three days after receiving notice thereof, notify the probate judge and clerk of the circuit court of their respective counties of such special election.

(Mar. 3, 1875, p. 76, § 14.)

445. (1604) (365) (270) How conducted and certificates given.—Special elections are to be held and conducted, the returns thereof made, and certificates given, and, unless otherwise expressly provided, regulated in all respects by the provisions in relation to general elections.

(Mar. 3, 1875, p. 76, § 15.)

Electors for President and Vice President; Representatives in Congress.

ARTICLE 20.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT; REPRESENTATIVES IN CONGRESS. 446-451.

SECTION.

446. Presidential electors and representatives in congress to be elected.
447. Supervisors make returns to secretary of state.
448. Governor estimates returns, and gives notice of election.

SECTION.

449. In case of tie, governor gives casting vote.
450. Electoral meeting and supply of vacancies.
451. Compensation of electors.

446. (1653) (435) (342) (388) (339) Presidential electors and representatives in congress to be elected.—On the day prescribed by this Code there are to be elected, by general ticket, a number of electors for president and vice-president of the United States equal to the number of senators and representatives in congress to which this state is entitled at the time of such election; and there shall be elected one representative in congress for each congressional district.

(Aikin's Digest, pp. 142-144, §§ 1-16; pp. 146-147, §§ 1-7; Mar. 3, 1875, p. 76, § 83.)

447. (1654) (436) (343) Supervisors make returns to secretary of state.—In all elections for electors for president and vice-president, and for representatives in congress, the board of county supervisors of each county must, within five days after making the statement of the county vote, return the result of the same to the secretary of state.

(Mar. 3, 1875, p. 76, § 84.)

448. (1655) (437) (344) Governor estimates returns and gives notice of election.—Within fifteen days after the time for making the returns the governor, in the presence of the secretary of state and attorney-general, or either of them, in the absence of the other, must estimate the returns, ascertain who are elected, and notify them by proclamation.

(Mar. 3, 1875, p. 76, § 85.)

449. (1656) (438) (345) (391) (342) In case of tie, governor gives casting vote.—If, on such estimate, it is found that an election of the number of electors to which the state is entitled is not made by reason of two or more persons having received an equal number of votes, the governor must forthwith decide between those having an equal number of votes.

(Mar. 3, 1875, p. 76, § 86.)

450. (1657) (439) (346) (394) (345) Electoral meeting and supply of vacancies.—The electors of president and vice-pres-

Elections in New Counties.

ident are to assemble at the office of the secretary of state, at the seat of government, at twelve o'clock noon, on the second Monday in January next after their election, or at that hour on such other day as may be fixed by congress, to elect such president and vice-president, and those of them present at that hour must at once proceed by ballot and plurality of votes to supply the places of those who fail to attend on that day and hour.

(Mar. 3, 1875, p. 76, § 87.)

451. (1658) (440) (347) Compensation of electors.—Each elector for president and vice-president shall receive eight dollars for each day he necessarily attends at the seat of government, and twenty cents for every mile traveled to and from the same, to be estimated in the same manner as is provided by law in relation to members of the legislature from his county, to be paid, on oath of such elector, by warrant on the state treasurer.

(Mar. 6, 1876, p. 103.)

ARTICLE 21.

ELECTIONS IN NEW COUNTIES. 452-454.

SECTION.

452. New county; suffrage; representation.

453. Right of elector to vote in new county.

SECTION.

454. Returns of elections to congress and legislature in new county.

452. (1659) (441) (348) (397) (348) New county; suffrage; representation.—Every new county, as to the right of suffrage and representation in elections for the legislature and for congress, is to be considered as part of the county or counties from which it was taken until the right of separate representation is given by act of the legislature.

Origin and history of statute.—Toulmin's Digest, pp. 266-288.

453. (1660) (442) (349) (398) (349) Right of elector to vote in new county.—No elector can vote at any precinct in any new county for representative in congress or members of the legislature until an act of the legislature is passed giving to such county a separate representation, unless such elector would have been entitled to vote at such precinct for such officers before the formation of such new county.

454. (1661) (443) (350) (399) (350) Returns of elections to congress and legislature in new county.—The inspectors and returning officers of each election precinct in any new county must, until such county is entitled to a separate representation, make returns of the elections of representatives in

As amended, Dec. 18, 1900, p. 106.

Contesting Elections; Provisions Common to All Contests.

congress and members of the legislature to the returning officer of the county in which such precinct was situated before the formation of such new county; for all other officers the returns must be made to the returning officer of such new county:

ARTICLE 22.

CONTESTING ELECTIONS; PROVISIONS COMMON TO ALL CONTESTS. 455-459.

SECTION.

455. Contest of elections; grounds of contest.

456. When election not annulled.

457. Any voter must answer as to his qualification.

SECTION.

458. Either party may have a copy of registration and poll lists.

459. Jurisdiction denied courts of chancery in election contests; appeal.

(r.c.c.)

455. (1667) Contest of elections; grounds of contest.—The election of any person declared elected to the office of governor, secretary of state, state auditor, state treasurer, attorney-general, superintendent of education, commissioner of agriculture and industries, state game and fish commissioner, railroad commissioner, senator or representative in the legislature, justices of the supreme court, chancellor, judge of the circuit court, supernumerary judge, or to any office which is filled by the vote of a single county, or to the office of justice of the peace, or constable, may be contested by any person who was at the time of either of the said elections a qualified elector, for any of the following causes:

1. Malconduct, fraud, or corruption on the part of any inspector, clerk, marker, returning officer, board of supervisors, or other person.
2. When the person whose election to office is contested was not eligible thereto at the time of such election.
3. On account of illegal votes.
4. On account of the rejection of legal votes.
5. Offers to bribe, bribery, intimidation, or other malconduct calculated to prevent a fair, free, and full exercise of the elective franchise.

(Aikin's Digest, pp. 144-146; Feb. 10, 1893, p. 468, § 1; Feb. 16, 1895, p. 757, § 1.) Irregularities in conducting elections; marking ballot of illiterate.—Patton v. Watkins, 131 Ala. 387 (31 So. 93). Jury trial fixing hearing; statement of contest under old statutes.—Taliaferro v. Lee, 97 Ala. 92 (13 So. 125); Clark v. Jack, 60 Ala. 271; Leigh v. State, 69 Ala. 261; State v. Cobb, 108 Ala. 9 (18 So. 532).

456. (1668) When election not annulled.—No malconduct, fraud, or corruption on the part of the inspector, clerk, marker, returning officer, board of supervisors, or other person, nor any offers to bribe, bribery, intimidation, or other malconduct which prevented a fair, free, and full exercise of

Contesting Elections; Provisions Common to All Contests.

the elective franchise, can annul or set aside any election unless thereby the person declared elected, and whose election is contested, be shown not to have received the highest number of legal votes, nor must any election contested under the provisions of this Code be annulled or set aside because of illegal votes given to the person whose election is contested, unless it appears that the number of illegal votes given to such person, if taken from him, would reduce the number of votes given to him below the number of legal votes given to some other person for the same office. Nor must any election be annulled or set aside because of the rejection of legal votes unless it appears that such legal votes, if given to the person intended, would increase the number of his legal votes to or above the number of legal votes received by any other person for the same office.

(Feb. 10, 1893, p. 468, § 2.) Irregularities in conducting elections; effect of marking ballot of illiterate.—Patton v. Watkins, 131 Ala. 387 (31 So. 93).

457. (1669) Any voter must answer as to his qualifications.—Any person examined as a witness may be required to answer if he voted at the election contested, and to answer touching his qualifications; and if he was not at such election a qualified voter, he may be required to answer for whom he voted. If he make full, true, answers which may tend to criminate him, he shall not be prosecuted for voting at such election.

(Feb. 10, 1893, p. 468, § 4; Feb. 16, 1895, p. 757, § 11.) Secrecy of the ballot will be preserved, but it is a matter personal to the elector, and he may disclose it or not.—Black v. Pate, 130 Ala. 514 (30 So. 434).

458. (1670) Either party may have a copy of registration and poll lists.—It shall be the duty of the judge of probate of any county, upon the application of either party to any contest, or his agent or attorney, to deliver to the party, his agent or attorney, a certified copy of the registration lists and poll lists (one or both) of his county, or of any election precinct therein, upon the payment of his fees for certifying and copying the same at the rate of fifteen cents a hundred words written by him in making such copy; and such copies, duly certified, shall be received as presumptive evidence of the facts therein stated, the registration lists that the persons therein named were duly registered, and the poll lists that the persons therein named voted at the election and precinct therein named.

(Feb. 10, 1893, p. 468, § 4; Feb. 16, 1895, p. 757, § 10.)

459. (1671) (407) (314) Jurisdiction denied courts of chancery in election contests; appeal.—No jurisdiction exists in or

Contesting Elections of Members of Legislature, Chancellor, Circuit Judge, Etc. shall be exercised by any chancellor, chancery court, or any officer exercising chancery powers, to entertain any cause or proceeding for ascertaining the legality, conduct, or results of any election, except so far as authority to do so shall be specially and specifically enumerated and set down by statute; and any injunction, process, order, or decree from any chancellor, chancery court, or officer in the exercise of chancery powers, whereby the results of any election are sought to be inquired into, questioned, or affected, or whereby any certificate of election is sought to be inquired into, or questioned, save as may be specially and specifically enumerated and set down by statute, shall be null and void, and shall not be enforced by any officer or obeyed by any person; and should any chancellor or other officer hereafter undertake to fine, or in anywise deal with any person for disobeying any such prohibited injunction, process, order, or decree, such attempt shall be null and void, and an appeal shall lie forthwith therefrom to the supreme court then sitting, or next to sit, without bond, and such proceedings shall be suspended by force of such appeal; and the notice to be given of such appeal shall be five days.

(Mar. 15, 1875, p. 101.) Jurisdiction of city courts to contest election of tax collector. Mandamus, functions and proper remedy.—Wilson v. Duncan, 114 Ala. 659 (21 So. 1017).

ARTICLE 23.

CONTESTING ELECTIONS OF MEMBERS OF THE LEGISLATURE, CHANCELLOR, CIRCUIT JUDGE, ANY OFFICE FILLED BY THE VOTE OF A SINGLE COUNTY, JUSTICE OF THE PEACE, OR CONSTABLE. 460-477.

SECTION.

- 460. Statement of grounds of contest.
- 461. Notice of nature of evidence.
- 462. When contest commenced; security for costs.
- 463. Contest of senator or representative.
- 464. Testimony; how taken.
- 465. Depositions returned.
- 466. Costs taxed; execution issued.
- 467. Contest of chancellor.
- 468. Same; procedure; testimony.
- 469. Contest of a judge or the circuit court.

SECTION.

- 470. Contest of judge of the probate court.
- 471. Contest of justice of the peace, constable, or other officer filled by the vote of a single county.
- 472. Same; procedure; testimony
- 473. In all contests ballots may be examined.
- 474. Judgment rendered.
- 475. Contest not abated by death of contestant.
- 476. Appeals.
- 477. Costs of appeals.

460. (1686) Statement of grounds of contest.—When any elector chooses to contest the election of any person declared to be elected to the office of senator, representative in the legislature, chancellor, judge of the circuit court, any office which is filled by the vote of a single county, justice of the peace,

Contesting Elections of Members of Legislature, Chancellor, Circuit Judge, Etc. or constable, he must make a statement in writing setting forth specifically—

1. The name of the party contesting, and that he was a qualified voter when the election was held.

2. The office which said election was held to fill, and the time of holding the same.

3. The particular grounds of said contest. This statement must be verified by the affidavit of such contesting party to the effect that the same is believed to be true. If the reception of illegal votes is alleged as a cause of contest, it is a sufficient statement of said cause to allege that illegal votes were given to the person whose election is contested, which, if taken from him, will reduce the number of legal votes given to him to or below the number of legal votes given to some other person for the same office.

(Feb. 10, 1892, p. 468, § 3.)—Parks v. Owens, 100 Ala. 634 (13 So. 756); Turnipseed v. Jones, 101 Ala. 593 (14 So. 377); Wade v. Oates, 112 Ala. 325 (20 So. 495).

461. (1687) Notice of nature of evidence.—No testimony must be received of any illegal votes, or of the rejection of any legal votes in any contested election commenced under the provisions of this article, unless the party complaining thereof has given to the adverse party notice in writing of the number of illegal votes and by whom given and for whom given, and at what precinct or voting place cast, or the number of legal votes rejected, and by whom offered, and at what precinct or voting place cast, which he expects to prove on the trial. Such notice must be served personally or left at the residence or usual place of business of the adverse party at least ten days before the taking of the testimony in reference to such votes.

(Feb. 10, 1892, p. 468, § 2.)

462. (1688) When contest commenced; security for costs.—All contests of elections provided for in this article must be commenced within twenty days after the result of the election is declared, except as in this article otherwise provided; and at the time of commencing such contest and of the filing the statement in writing, the party contesting must give security for the costs of such contest, to be filed and approved as in this article provided.

(Feb. 10, 1892, p. 468, § 3.)—Hilliard v. Brown, 103 Ala. 318 (15 So. 605).

463. (1689) Contest of senator or representative.—If the contest be of the election of a senator or representative in the legislature, the elector contesting must file in the office of the clerk of the circuit court of any county of the senatorial district, if such contest be of the election of a senator, or in the

Contesting Elections of Members of Legislature, Chancellor, Circuit Judge, Etc. office of the clerk of the circuit court of the county in which the election was held, if the contest be of the election of a representative in the legislature, a statement in writing of the grounds of contest as provided in this article, and must give good and sufficient security for the costs of such contest, to be taken and approved by the clerk. Of the statement in writing the person whose election is contested must have ten days' notice before the taking of the testimony by the service on him of a certified copy of such statement by the sheriff or a constable of the county, and such sheriff or constable must indorse on the original the fact of such service, and such indorsement is presumptive evidence of the fact.

(Feb. 10, 1892, p. 468, § 5.)

464. (1690) Testimony; how taken.—The testimony in the case of a contest provided for in the preceding section must be taken by deposition under commission issued by the clerk of the court where the statement of contest is filed, which commission must issue on the party applying for the same making and filing an affidavit stating the name of the witnesses, the place of residence of such witnesses, and that the testimony sought and expected is material. The depositions must be taken on interrogatories filed in the office of the clerk after making and filing the affidavit, and of the interrogatories and affidavit and the names and residence of the commissioner or commissioners proposed to be appointed, ten days' notice must be given the adverse party by service on him personally or by leaving at his usual place of residence or business a copy of the interrogatories and affidavit, to which must be appended notice of the name and residence of the commissioner proposed to be appointed. Such service must be made by the sheriff or a constable of the county, and within ten days thereafter such adverse party may file cross-interrogatories, to which the party filing the interrogatories may file rebutting interrogatories; and thereafter commission may issue. Of the time and place of taking the depositions, the commissioner must give each party five days' notice in writing, which notice may be served by the sheriff or a constable of the county. If the witnesses reside or are to be examined within the county, the adverse party is entitled to demand that they be examined orally, separate and apart from each other, on giving notice within the ten days allowed him to file cross-interrogatories, that such examination is required; and if such notice be given, the commission issued must not be accompanied by the interrogatories filed, and must authorize and direct the commissioner to examine the said witnesses orally, separate and apart from each other, after giving each party

Contesting Elections of Members of Legislature, Chancellor, Circuit Judge, Etc. five days' notice of the time and place of the examination. In the execution of all commissions to take testimony under this section, the commissioner must conform to and observe the requirements of the statute concerning the taking of depositions in civil suits at law, and has and may exercise all the power and authority by the statute conferred on commissioners; and against defaulting witnesses all such proceedings may be had and taken as are authorized by said statute.

(Feb. 10, 1892, p. 468, § 5.)—*Roney v. Simmons*, 97 Ala. 88 (11 So. 740).

465. (1691) Depositions returned.—The commissioner must carefully envelope the depositions taken, with the commission attached, writing his name across the sealing of the envelope and indorsing thereon the names of the witnesses and the title and subject-matter of the contest, and direct the envelope to the clerk issuing the commission, and must, within five days after taking the deposition, file the same with the said clerk, or transmit the same by mail through the nearest post-office. The clerk must, within five days after the taking of testimony has been finished, and the depositions received in his office, make and certify under the seal of the court a true and correct copy of the statement of the grounds of contest and of the return of service thereon, and must inclose the same with the depositions so taken and filed in his office, and must securely envelope the same, indorsing thereon the title and subject-matter of the contest, and direct the package to the presiding officer of that branch of the legislature before which the contest is to be tried, at the seat of government, and deposit the same, postage paid, in the nearest postoffice.

(Feb. 10, 1892, p. 468, § 5.)

466. (1692) Costs taxed; execution issued.—The package mailed by the clerk must be opened by the presiding officer and presented to the house over which he presides for such action as such house may deem proper. On the determination of the contest the secretary of the senate, or the clerk of the house, as the case may be, must certify the result thereof to the clerk of the court in which the statement of contest was filed. The certificate must be filed in the office of the clerk and shall have the force and effect of a judgment against the unsuccessful party for the costs of the contest. And the clerk having taxed the costs, allowing the fees and costs allowed for similar services in civil cases at law, must issue execution for the amount thereof in the name of the successful party. If the party contesting be the unsuccessful party, execution must issue against him and his sureties for the costs.

(Feb. 10, 1892, p. 468, § 5.)

Contesting Elections of Members of Legislature, Chancellor, Circuit Judge, Etc.

467. (1693) Contest of chancellor.—If the contest be of an election to the office of chancellor, the party contesting must file in the office of the clerk of the circuit court of the county of the residence of the person declared to be elected, the statement of the grounds of contest as required in this article, and give good and sufficient security for the costs of the contest, to be taken and approved by such clerk. Immediately thereafter the clerk must enter the contest on the trial docket as a civil cause pending for trial in the circuit court, and the contest shall stand for trial and be heard in precedence of all other causes, civil or criminal, in said court, and must be proceeded in, tried, and determined as are other civil causes in courts of law.

(Feb. 10, 1892, p. 468, § 6.)

468. (1694) Same; procedure; testimony.—Within two days after entering the said contest on the docket of said court, the clerk must issue a summons directed to the party whose election is contested, accompanied by a certified copy of the statement of the grounds of contest, requiring such party, within ten days after the service of the summons, to appear and answer to the statement. The testimony on the contest must be taken by deposition as in civil cases at common law, but no affidavit, other than of the materiality of the testimony of the witnesses proposed to be examined, shall be required. Either party may, on giving five days' notice, require the examination before the commissioner to be oral, and that the witnesses be examined separate and apart from each other. The party against whom the depositions are to be taken must have at least five days' notice of the time and place of taking such depositions and of the name and residence of the commissioner or commissioners proposed. The circuit court must try the contest at the first term after the commencement thereof, and the contest must be deemed and taken to have been commenced with the service of the summons as provided in this section, if thirty days have intervened after such service; but for good cause shown the trial of the contest may be continued to the next term or to a special term to be appointed by the court; but such contest must be tried at the second term unless continued by the failure of the presiding judge to attend and hold such term or because of his incompetency for legal cause to try and determine the contest. The contest must be heard and determined by the court without the intervention of a jury.

(Feb. 10, 1892, p. 468, §§ 6, 7.)

469. (1695) Contest of a judge of the circuit court.—If the contest be of an election to the office of judge of the circuit

Contesting Elections of Members of Legislature, Chancellor, Circuit Judge, Etc.

court, the party contesting must file in the office of the court of chancery of the county or district of the residence of the person declared elected, a statement in writing of the grounds of contest, verified by affidavit, as prescribed in this article, and must give good and sufficient security for the costs of the contest, to be approved by the register. On the filing of the statement and the giving of the security, the register must make and certify to the chancellor of the division in which the contestee resides a certified copy of the statement, and on receipt of the copy, the chancellor must indorse thereon an order appointing a day for the trial of the contest, not less than thirty nor more than fifty days from the day of the reception of the certified statement, and fixing the place of trial, which must be at some place in the circuit in which the election was held, and where a court of chancery is required to be held, and must further order the register to issue a summons directed to the person whose election is contested, accompanied with a certified copy of the statement, requiring him to appear within ten days after the service of the summons and make answer to the statement, which summons shall be served by the sheriff or a constable at least twenty days before the day appointed for the trial. The testimony must be taken by deposition, as is prescribed for the case of a contest of the election of chancellor.

(Feb. 10, 1892, p. 468, § 8.)

470. (1696) Contest of judge of the probate court.—If the contest be of an election to the office of judge of the probate court, the party contesting must file in the office of the clerk of the circuit court of the county in which the election was held, a statement in writing verified by affidavit, of the grounds of the contest as provided in this article, and must give good and sufficient security for the costs of the contest, to be approved by the clerk. On the filing of the statement and the giving of the security, the clerk must enter the contest on the trial docket as a civil cause pending in said court for trial, and after having made such entry, the clerk must issue a summons, accompanied with a certified copy of the statement, directed to the party whose election is contested, requiring him within five days after the service of the summons, to appear and make answer to the statement, which summons must be served by the sheriff or by a constable of the county. The contest is triable by the court without the intervention of a jury, and must be heard and tried in precedence of all other causes, civil or criminal, standing for trial in the court. Either party is entitled to subpoena to compel the personal attendance of witnesses on the trial of the contest, and against defaulting witnesses such proceedings

Contesting Elections of Members of Legislature, Chancellor, Circuit Judge, Etc. may be had as are had against other defaulting witnesses in civil causes pending in the court. Testimony may also be taken by deposition in the case and in like manner as depositions are taken in other civil cases pending in the court.

(Feb. 10, 1892, p. 468, § 9.)—*Taliaferro v. Lee*, 97 Ala. 92 (13 So. 125); *Parks v. State*, 100 Ala. 634 (13 So. 756); *Hilliard v. Brown*, 103 Ala. 318 (15 So. 605).

471. (1697) (417) (324) (346) (301) Contest of justice of the peace, constable, or other office filled by the vote of a single county.—If the contest be of an election to fill the office of justice of the peace, constable, or any office filled by the vote of a single county not in this article otherwise provided for, the person contesting must file in the office of the judge of probate of the county in which the election was held, within fifteen days after the result of the election has been declared, a statement in writing of the grounds of contest verified by affidavit, as required by this article, and must give security for the costs of the contest to be approved by the judge of the probate court; but in no case of an election contested under the provisions of this section shall the judge of probate require security for more than five hundred dollars; and the judge of probate may, from time to time, as may seem just and proper, require additional or better security; but in no event shall such security exceed five hundred dollars, and when such additional security shall be given and approved, it shall supersede any bond theretofore given and shall stand as security for the entire costs of the contest. The statement having been filed and security for costs given, the judge of the probate court must appoint a day for the trial of the contest and must order a summons to issue to the party whose election is contested, accompanied with a copy of the statement, requiring such party to appear and make answer to the statement within five days after the service of the summons. The judge of the probate court must appoint a day for the trial of the contest, not exceeding twenty days after the filing of the statement, and of the day appointed the party whose election is contested must have ten days' notice in writing served upon him by the sheriff or a constable of the county.

(Feb. 10, 1892, p. 468, § 10; Mar. 3, 1875, p. 76, § 54.) Limitation as to institution of contest; amendments; new grounds cannot be added as amendments after fifteen days.—*Black v. Pate*, 130 Ala. 514 (30 So. 434). Jurisdiction of city court to contest; security for costs; jurisdictional requirements of contest; mandamus, its functions and proper remedy as to elections.—*Wilson v. Duncan*, 114 Ala. 659 (21 So. 1017). Judgment on bond for costs for contest election for office of tax collector; probate judge vacating judgment.—*Frazier v. McWhirter*, 121 Ala. 308 (25 So. 804). Right of action on bond for contest.—*Ib.*; *Dean v. Witherington*, 116 Ala. 573 (22 So. 869); *Wilson v. Duncan*, 114 Ala. 659 (21 So. 1017); *Hilliard v. Brown*, 103 Ala. 318 (15 So. 605). Contests are unauthorized except by statute, and the statutory requirements must be strictly complied with, even as to the time of the contest and as to amendments of proceedings.—*Black v. State*, 130 Ala. 514 (30

Contesting Elections of Members of Legislature, Chancellor, Circuit Judge, Etc. So. 434); 136 Ala. 601 (34 So. 844). What fees recoverable as costs.—Dean v. Witherington, 116 Ala. 573 (22 So. 869). When judge of probate disqualified by interest.—Medlin v. Taylor, 101 Ala. 239 (13 So. 310); Morrow v. Russell, 99 Ala. 271 (13 So. 21).

472. (1698) Same; procedure; testimony.—Either party to the contest is entitled to subpoena to compel the personal attendance of witnesses on the trial, which must be issued on application by the judge of probate, and the same proceedings may be had against defaulting witnesses as in matters litigated in the court of probate, such proceedings being returnable to any regular term of the court within three months after the same are taken. Testimony may also be taken by deposition in such cases and in like manner as in civil cases in courts of law, the commission to be issued by the judge of probate. If the ground of contest of the election be malconduct, fraud, or corruption on the part of any inspector, clerk, marker, returning officer, or other person, or because of bribery or offers to bribe imputed to the party whose election is contested, such party may demand a trial of those grounds by jury. All other grounds of contest may be determined by the judge of probate without the intervention of a jury. In the hearing and determination of the contest the judge of the probate court must be governed by the rules of law applicable to the hearing and determination of civil causes in courts of law.

(Feb. 10, 1892, p. 468, § 10.)

473. (1699) In all contests ballots may be examined.—In all contests of elections before the judge of probate, or before the chancellor, or the circuit court, the judge or chancellor presiding is authorized to make an examination of the ballots given or rejected in the election so far as he may deem it necessary to arrive at a correct judgment, and may make and enforce by attachment all necessary orders to obtain possession of the same, and must make all proper orders necessary for the return of the ballots to the proper custody after the same have been examined by him.

474. (1700) Judgment rendered.—If, on the trial of the contest of any election, either before the judge of probate, or the chancellor, or the circuit court, it shall appear that any other person than the one whose election is contested, received, or would have received, had the ballots intended for him and illegally rejected been received, the highest number of legal votes, judgment must be given declaring such person duly elected, and such judgment shall have the force and effect of investing the person thereby declared elected, with full right and title to have and to hold the office to which he is declared elected. If it appears that two or more persons have, or would have had,

Contesting Elections of Members of Legislature, Chancellor, Circuit Judge, Etc. if the ballots intended for them and illegally rejected had been received, the highest and equal number of votes for such office, judgment must be rendered declaring the fact, and such fact must be certified to the officer having authority to fill vacancies in the office the election to which was contested. If the person whose election is contested is found to be ineligible to the office, judgment must be rendered declaring the election void, and the fact certified to the appointing power. If the party whose election is contested is found to have been duly and legally elected, judgment must be rendered declaring him entitled to have and to hold the office to which he was so elected.

475. (1701) Contest not abated by death of contestant.—In all contests of elections, such contests are not abated by the death of the party commencing them before final judgment, if any qualified elector appears in court and substitutes himself as contestant, and gives good and sufficient security for the costs which have accrued or may accrue on the contest. But if no qualified elector appears and proposes to substitute himself as the party contesting, the contest abates on the death of the contesting party, and judgment must be rendered against his sureties for the costs of the contest, which must be collected by execution in the name of the party whose election was contested. In all cases the person whose election is contested, if he be the successful party in such contest, is entitled to judgment for the costs thereof against the party contesting and his sureties, for which execution may issue returnable to the court of probate, or to the court of chancery or to the circuit court, as the case may be.

476. (1702) Appeals.—In all contested elections before the judge of the probate court an appeal lies to the supreme court within five days after the rendition of the judgment. From the judgment or decree of the chancellor on the contest of an election of the judge of the circuit court, an appeal lies to the supreme court which must be taken within five days after the rendition of decree or judgment. From the judgment of the circuit court on the contest of an election of a chancellor or of a judge of probate, an appeal lies to the supreme court within five days after the rendition of the judgment.

477. (1703) Costs of appeals.—On the taking of an appeal as provided in the preceding section, the appellant must give bond and security for the costs thereof to be approved by the judge of probate, register, or clerk of the circuit court, as the appeal may be taken from the judgment of the judge of probate, chancellor, or circuit court; and the appeal bond must be certified with the record to the appellate court. And if judgment be rendered confirming the judgment of the judge of pro-

Contesting Elections of State Officers.

bate, or of the chancellor, or of the circuit court, the supreme court must render judgment against the appellant and his sureties for the costs. An appeal in any and all cases suspends the execution of the judgment or decree of the judge of probate, of the chancellor, or of the circuit court.

(Feb. 10, 1892, p. 468, § 14.)

ARTICLE 24.

CONTESTING ELECTIONS OF STATE OFFICERS. 478-491.

SECTION.

- 478. Contest of state office; statement; bond.
- 479. Same; contents of statement; verification; service; amendments.
- 480. Tried by joint convention of house and senate.
- 481. Commission elected to take testimony.
- 482. Sitting of commission.
- 483. Commission to take testimony.
- 484. Notice to adverse party.

SECTION.

- 485. Commission has power to punish for contempt.
- 486. Evidence confined to the allegations.
- 487. Each party entitled to be present.
- 488. Commission to report its conclusions and the evidence.
- 489. Pay of witnesses.
- 490. Duty of sheriffs.
- 491. Execution for costs.

478. (1672) Contest of state office; statement; bond.—When (r.c.o.) any elector shall choose to contest any election for the office of governor, secretary of state, state auditor, state treasurer, attorney-general, superintendent of education, commissioner of agriculture and industries, justices of the supreme court, supernumerary judge, the state game and fish commissioner, he must, within ten days after the speaker of the house of representatives shall have opened the returns and proclaimed the result of the election for governor, secretary of state, state auditor, state treasurer, and attorney-general, as provided in this chapter, file with the speaker of the house of representatives a written statement of the grounds of such contest and a bond with good and sufficient sureties payable to the State of Alabama and conditioned for the payment of such costs as may accrue upon such contest in the event such contest shall result in favor of the contestee. Such bond must be in the sum of five thousand dollars, and must be subject to the approval of the speaker of the house, and such bond, when it shall be approved, shall be filed and recorded in the office of the secretary of state.

Origin and history of statute.—Toulmin's Digest, pp. 266-288. (Feb. 16, 1895, p. 757, § 3.) Bonds for contest elections; actions on such bonds.—McWhirter v. Frazier, 129 Ala. 450 (29 So. 445).

479. (1673) Same; contents of statement; verification; service; amendments.—The written statement of the grounds of contest must set forth specifically—

ELECTIONS.

Contesting Elections of State Officers.

1. The name of the person contesting, and that he was a qualified voter when the election was held.

2. The office which said election was held to fill, and the time of holding the same.

3. The particular grounds of the contest. The statement shall set forth the name of the counties in which any of the alleged grounds of contest may have occurred, and shall state with particularity the names of the election precincts in each of such counties in which the grounds of contest may be alleged to have occurred. The statement must set out with particularity the grounds on which the declared vote of each of the named election precincts in each county is contested. Such statement of the grounds of contest must be sworn to by the elector making the contest before some officer authorized to administer oaths in the State of Alabama, and may be amended from time to time as may be determined by the two houses of the legislature in joint convention assembled. The speaker of the house shall cause the clerk of the house forthwith to serve a copy of the statement on the person who may have been declared to have been elected to the contested office.

(Feb. 16, 1895, p. 757, § 4, et seq.)

480. (1674) Tried by joint convention of house and senate.—The two houses of the legislature, in joint convention assembled, and presided over by the speaker of the house of representatives, shall constitute the tribunal for the trial of all contests for the office of governor, secretary of state, state auditor, state treasurer, attorney-general, superintendent of education, or commissioner of agriculture and industries, justices of the supreme court, supernumerary judge, and state game and fish commissioner, and such joint convention shall fix a day for the trial, which may be adjourned from day to day, and from time to time, as may be determined by the joint convention. A majority of the joint convention shall be competent to try all issues involved in the contest and render judgment on all questions arising during the progress of the trial, including a final judgment on the contest. The proceedings of the joint convention, as well as all judgments rendered, shall be entered upon the journals of the senate and the house of representatives, and the final judgment of the joint convention upon the contest shall thereupon become effective as a judgment, and shall have the force and effect of vesting the title to the office, which may be the subject of contest in the person in whose favor the judgment may be rendered.

481. (1675) Commission elected to take testimony.—When any contest shall have been commenced under the provisions of this Code for any of the officers mentioned in the preceding

Contesting Elections of State Officers.

section, it shall be the duty of the legislature, in joint convention, to elect by ballot three senators and five representatives, who shall act as a commission to take the testimony to be submitted on the contest. Every member of the joint convention, at such time as may be fixed by resolution of the two houses, shall vote for two senators and three representatives as members of the commission, and the three senators and five representatives who receive the highest number of votes shall be declared elected commissioners.

482. (1676) Sitting of commission.—The commission provided for in the preceding section shall sit at such times and places as may be directed by the joint convention, and shall be presided over by a chairman of its own selection, and each member of the commission shall receive four dollars per diem during the time of actual sitting when the legislature is not in session, and necessary expenses, to be paid by the auditor's warrant drawn upon the treasurer, when the chairman of the commission shall certify the same to the auditor.

483. (1677) Commission to take testimony.—The commission shall take testimony on the part of the contestant, and also on the part of the contestee, and shall have power to send for witnesses, books and papers anywhere in the State of Alabama; shall have power to issue warrants, under the hand of the chairman, to any judge, justice of the peace, clerk of any court of record, or such other competent and discreet person as the commission may appoint, to take the deposition of witnesses at such time and place as the warrant shall direct, and the points as to which the testimony is to be taken shall be set forth in such warrant. The evidence taken in the case of a contest of the election of one officer may be used in the contest of the election of any other officer voted for at the same election and contested before the legislature; provided, notice that such evidence will be used, or offered, shall be given to the party or parties interested in such other office, so that all parties interested may be present and participate in the taking of such testimony, and provided, the party instituting the contest does not object by filing his written objection with the commission.

484. (1678) Notice to adverse party.—Whenever either party shall apply to the commission to examine witnesses, either before the commission or by warrant issued from the commission, the adverse party shall have five days' notice of said application and of the time and place of taking such depositions.

485. (1679) Commission has power to punish for contempt.—If any witness, being summoned, fails to attend, or being sum-

Contesting Elections of State Officers.

moned with a subpoena duces tecum, fails and refuses to produce the paper or document required to be produced by the subpoena, the commission shall have the right and authority to punish said witness for contempt by a fine not exceeding five hundred dollars, or by imprisonment in any county jail in the state for a period not to exceed thirty days, one or both, and in case any witness shall fail to appear or produce any book or document before any judge, justice of the peace, clerk of court, or other person having a warrant from the commission, the judge, justice of the peace, clerk of court, or other person, must certify the fact to the commission, which may thereupon punish such witness for contempt, as provided in this section.

486. (1680) Evidence confined to the allegations.—No evidence shall be taken on the part of the contestant unless to sustain some one of the specific allegations of the original or amended statement of grounds of contest. Nor shall any evidence be taken on the part of the contestee except in rebuttal of the specific allegations of the original or amended statement of the grounds of contest. But upon five days' notice the contestee shall have the right to take evidence of (1) any misconduct, fraud, or corruption on the part of any inspector, clerk, marker, returning-officer, board of supervisors, or other person; (2) of illegal votes cast for some other person than the contestee; (3) of the rejection of legal votes cast for the contestee; (4) of offers to bribe, bribery, intimidation, or other misconduct which prevented a fair, free and full exercise of the elective franchise in any election precinct in the State of Alabama, the election in which is not put in issue by the original or amended statement of the grounds of contest; and when the contestee shall take evidence as herein provided, the contestant shall be permitted to take evidence in rebuttal.

487. (1681) Each party entitled to be present.—Each party shall have the right to be present at the taking of any evidence, in person, or by agent or attorney.

488. (1682) Commission to report its conclusions and the evidence.—It shall be the duty of the commission to examine the evidence adduced upon the contest and shall report its conclusions to the joint convention of the two houses, and all evidence taken under the provisions of this article shall be returned by the commission to the speaker of the house at such time as the joint convention may direct.

489. (1683) Pay of witnesses.—The witnesses shall be allowed for their attendance one dollar a day and three cents a mile coming and going from their place of residence to where such depositions are taken by the route most usually traveled.

County Local Option Prohibition Law.

490. (1684) Duty of sheriffs.—The sheriffs of Alabama in their respective counties are required to serve subpoenas and such other writs as the commission may have authority to issue, and shall be allowed the same compensation as is now allowed by law for similar services performed at the command of the courts.

491. (1685) Execution for costs.—After the determination of the contest, the clerk of the house of representatives must tax the costs accrued and certify the amount of each separate item, the name of the person entitled thereto, and the result of such contest and the names of the sureties on the bond for contest, to the clerk of the circuit court of Montgomery county, and said clerk must thereupon issue execution against the unsuccessful party, which execution must be made returnable to the term of court next after its issue; and alias and pluries executions may be issued as often as may be necessary. And if it be certified that the determination of the contest was against the contestant, the execution must issue against the sureties on the bond for contest as well as against the contestant.

(Feb. 16, 1895, p. 757, § 18.)

ARTICLE 25.

COUNTY LOCAL OPTION PROHIBITION LAW. 492-511.

SECTION.

- 492.** Petition or call for election; contents of; probate judge orders election.
- 493.** Notice of election, publication of.
- 494.** Appointment of managers and officers of election.
- 495.** Sheriff notifies officers of election.
- 496.** Ballots, instructions, and stationery for elections provided for.
- 497.** Ballots, form, and contents of.
- 498.** Results, ascertaining, and returning same.
- 499.** Canvassing returns and declaring result; publication of.
- 500.** Election held under general election law, except as otherwise provided.

SECTION.

- 501.** Officers of election failing or refusing to perform duty; penalty for.
- 502.** Qualification of electors or voters.
- 503.** Times at which election shall not be held.
- 504.** Elections affecting dispensaries; when may be held.
- 505.** Time of holding second election.
- 506.** Contest of such elections.
- 507.** Effect of election to prohibit sale of intoxicating liquors.
- 508.** Sales or other dispositions of intoxicants covered by article.
- 509.** Laws not repealed by this article.
- 510.** Wines for sacramental purposes exempt.
- 511.** Intoxicants defined.

492. Petition or call for election; contents of; probate judge orders election.—Upon the application of one-fourth of the qualified voters of any county in the State of Alabama by petition in writing, signed by such qualified voters addressed to

Feb. 26,
1907, p.
136, § 1;
Aug. 7,
1907, p.
626, § 2.

the probate judge of such county, he shall, within ten days after the presentation of such petition, order an election to be held in said county within forty days from the presentation of said petition to determine whether intoxicating liquors, drinks or beverages, may be sold or otherwise disposed of within the limits of such county.

Feb. 28,
1907, p.
136, § 1.

493. Notice of election; publication of.—Notice of such election shall be published for twenty days preceding the election in some newspaper published in said county, or if there be no newspaper published in said county, then by posting notice thereof for the same period of time as required for publication in a newspaper, at five or more public places within the county. The sheriff of such county shall provide for the notice and publication required in this section.

ib., § 8.

494. Appointment of managers and officers of election.—The probate judge, clerk of the circuit court, and sheriff of the county in which an election is ordered under this article, within ten days after the election is so ordered, shall appoint three managers and one returning officer for each precinct, polling or voting place, in said county to manage, conduct and make returns for such election; such managers and returning officers so appointed shall be, as far as it is practicable so to do, equally divided between those who favor prohibition of the sale of intoxicating liquors and those who oppose the prohibition of such sale; and all three of the managers in any precinct shall not be appointed from the same class; that is, those favoring or opposing the prohibition of the sale of intoxicating liquors, if it be practicable to appoint the managers from both classes at such precincts. If all the managers thus appointed for any precinct do not appear on the day of the election to conduct the election, or if any returning officer is not present to make his return, the manager or managers so appearing may appoint managers and returning officers to fill the places of those failing to appear, in accordance with the provisions of this section, as far as practicable. All managers and returning officers shall be qualified electors within the precinct, polling or voting place for which they are appointed.

ib., § 4.

495. Sheriff notifies officers of election.—The sheriff shall, as soon as practicable after the appointment of the managers and returning officers for said election, notify them of their appointment in writing.

ib., § 5.

496. Ballots, instructions, and stationery for elections provided for.—The probate judge shall prepare or provide the necessary ballots, not less than double the number of qualified electors in each precinct; poll lists, tally sheets, return sheets, and instructions for holding the election; ballot boxes, voting booths, or other stationery or other material necessary for the

proper holding of the election, and the sheriff shall see that the same are delivered to one of the managers of each election precinct or voting place before the day of the election.

497. Ballots; form and contents of.—The ballot used in such election shall have printed or written on the same, “Against the sale of liquors,” “For the sale of liquors,” and the voter in preparing or casting his ballot shall make a cross mark before the phrase “Against the sale of liquors,” or before the phrase “For the sale of liquors,” as the case may be, indicating his choice or vote, but no ballot or vote shall be rejected or the count thereof refused for failure to comply with this section, if the ballot clearly shows or indicates the choice of the voter; provided, that in any county where liquors are sold only in dispensaries established by law at the time of the election, the form of ballot shall be “Against the sale of liquors,” and “For the sale of liquors in dispensaries.”

Feb. 26,
1907, p.
136, § 6.

498. Results, ascertaining and returning same.—Immediately after the polls are closed, the managers shall duly ascertain the result of the election at their respective voting places, and make due returns of the same to the probate judge of said county, and deliver the ballot box containing the returns so made, together with the ballots, poll lists, tally sheets, and other necessary papers, to the returning officer for such voting place, who shall deliver the same to the probate judge of such county, at his office, on or before noon of the second day after the election.

Ib., § 7.

499. Canvassing returns and declaring result, publication of.—The probate judge, sheriff, and circuit clerk shall, in open session, five days after the election, canvass the returns so made, and under oath make a written report declaring the result of the election as to the entire county, showing the number of votes cast in said county and at each voting place against the sale of liquors and the number cast for the sale of liquors, which report shall be filed at once in the office of the probate judge and published in a newspaper published in said county, and if there be no newspaper published in such county, then by posting copies of the report in five public places in the county, and by posting a copy of said report at the courthouse door of said county in each case whether there be a newspaper in the county or not.

Ib., § 8.

500. Election held under general election law except as otherwise provided.—Except as otherwise provided in this article, elections held under it shall be held and conducted under the general election laws of this state, and the officers of election under the general laws of this state shall discharge and perform the same duties and receive the same compensa-

Ib., § 9.

County Local Option Prohibition Law.

tion as required of and provided for in the general election laws of this state, which compensation and all costs of election shall be paid out of the county treasury of the county in which the election is held.

Feb. 26,
1907, p.
136, § 10.

501. Officers of election failing or refusing to perform duty; penalty for. Any officer, manager, or returning officer of election who shall fail or refuse to perform any duty required of him under the provisions of this article, or the general election law, shall be liable to a penalty of not less than one dollar nor more than five hundred dollars, to be recovered of him in a civil action in a suit by the county against him in which such election was held.

Ib., § 11.

502. Qualification of electors or voters.—All persons who are qualified electors under the constitution and general laws of this state at the time of the election, and only such, shall be entitled to vote at any election held under the provisions of this article.

Feb. 26,
1907, p.
136, § 1:
Amended
Aug. 7,
1907, p.
626, § 2.

503. Times at which election shall not be held.—Such election shall not be held within less than thirty days from the time it is ordered, nor within thirty days of the time of holding any county, state, or national election in said county.

Ib.

504. Elections affecting dispensaries, when may be held.—No election shall be called or held under this article in or for any county in which a dispensary may be established or may be authorized to be established for the sale of spirituous, vinous or malt liquors under any act passed by the session of 1907 of the legislature, before the expiration of two years from the date of the approval of said act.

Ib., § 12.

505. Time of holding second election.—When an election has been held under this article in any given county, no other election shall be held in such county under the provisions of this article within two years from the date of such election.

Ib., § 13.

506. Contest of such elections.—Any election held under the provisions of this article may be contested by any elector of the county in which the election is held, in the same manner as is or may then be provided by the general election laws of this state for the contest of an election for the office of probate judge. And the county shall be made the contestee, and the county solicitor shall be required to respond to the contest.

Ib., §§ 14
and 15.

507. Effect of election to prohibit sale of intoxicating liquors.—If a majority of the legal votes cast at any election in any county held under the provisions of this article shall be "Against the sale of liquor," then it shall not be lawful to sell or otherwise dispose of any intoxicating liquors, drinks or beverages within the bounds of said county after the 31st day of December next succeeding the date of such election, nor

shall a license be obtained or granted authorizing or purporting to authorize the sale or other disposition of such intoxicating liquors, drinks or beverages, after the date of such election within said county, and all licenses issued before such election shall be null and void, and shall not authorize the sale or other disposition of such intoxicating liquors after the 31st day of December next succeeding the date of the election; provided, subsequent elections may be held under the provisions of this article. And if, at any subsequent election held in such county, a majority of the votes cast are for the sale of liquors or for the sale of liquors in dispensaries, then, on and after the first day of January next succeeding such election, intoxicating liquors may be sold in such county as the same was authorized to be sold on January 1st, 1908. If a majority of the legal votes cast at any election held in any county under the provisions of this article shall be "For the sale of liquors," or "For the sale of liquors in dispensaries," as provided in section 497 of this article, then the sale of liquors shall not be affected by such election.

508. Sales or other dispositions of intoxicants covered by article.—The provisions of this article shall extend to all sales or other dispositions of intoxicating liquors, drinks or beverages, whether by dispensaries, retailers, wholesale dealers, or any separate or isolated sales or dispositions. Feb. 28,
1907, p.
136, § 16.

509. Laws not repealed by this article.—Neither the provisions of this article nor the result of any election held under such article shall have the effect to repeal or annul any law which now, or which at the time of such election, prohibits the sale or other disposition of intoxicating liquors, drinks, or beverages, within any county or precinct of such county. Ib., § 17.

510. Wines for sacramental purposes exempt.—The provisions of this article are not intended to extend to or prohibit the use of wines for sacramental purposes. Ib., § 18.

511. Intoxicants defined.—The phrase "intoxicating liquors, drinks, or beverages," used in this article, shall include all vinous, spirituous, and malt liquors, and all alcoholic liquors, drinks, or beverages, and all proprietary medicines which are or may be intoxicating. Ib., § 19.

CROSS REFERENCES.

ELECTION OF PUNISHMENT (Criminal Code)	7607, 7806
ELECTIONS, CONTEST OF (Political Code)	460- 491
ELECTIONS, MUNICIPAL (Political Code)	1164-1171
ELECTIONS; OFFENSES CONCERNING (Criminal Code)	6773-6826

CHAPTER 16.

ELECTIONS, PRIMARY. 512-537.

SECTION.

- 512. Primary elections defined.
- 513. Primary elections; how held.
- 514. General laws apply to primary elections.
- 515. Certificate by nominating party; how made and filed.
- 516. Certificate; form and contents of.
- 517. Canvassing board; for canvassing result and making certificate.
- 518. Certificate of nomination; where filed.
- 519. Vacancies of candidates; how filled.
- 520. Notice of primary elections.
- 521. Qualifications of voters at primary elections.
- 522. Officers of primary elections.
- 523. Officers of primary elections; powers and duties of.
- 524. Watchers named and their duties.
- 525. Candidates; how may have names placed on ballot.

SECTION.

- 526. Counting vote and declaring result of primary elections.
- 527. Canvassing returns of primary elections.
- 528. Sheriff; duties of at primary election.
- 529. Arrest of voters on day of election; regulation of.
- 530. Political party may fix special rules and regulations for elections.
- 531. Counting ballots; when and how made.
- 532. Campaign managers or committees.
- 533. General laws to govern primary election.
- 534. Poll list to be provided by probate judge.
- 535. Ballots; preparation of for primary elections.
- 536. Expense of primary elections.
- 537. Contest; notice of.

Oct. 1,
1903, p.
356, § 1.

512. Primary elections defined.—A primary election, within the meaning of this chapter, is an election held by the qualified voters who are members of any political party for the purpose of nominating a candidate or candidates for public office.

Ib., § 2.

513. Primary elections; how held.—All primary elections held in the state, by any political party, shall be held and conducted in the same form and manner and under the same requirements as are or shall be provided by law for the holding of regular state elections, except in such particulars as are herein excepted. But nothing herein contained shall be obligatory upon such party to hold such election.

Ib., § 3.

514. General laws apply to primary elections.—The provisions of the general election laws of the State of Alabama shall in all particulars concerning penalties imposed upon all persons in connection with elections be applicable to and be enforced in all primary elections held in this state, except where the same are in conflict with the provisions of this chapter.

Ib., § 4.

515. Certificate by nominating party; how made and filed.—When the nomination of candidates for public office is made

by any primary election which is to be filled by the voters of the entire county, the chairman and secretary of the county executive committee or other governing authority, representing the party for which the nomination is made, shall certify the same. If the office is to be filled by the voters of any district, whether senatorial, congressional, or judicial, the certificate shall be made by the chairman and secretary of the committee or other governing authority of such district representing the party for which the nomination is made. Said certificate shall be filed as provided for in this chapter.

516. Certificate; form and contents of.—The certificate of nomination shall be in writing; it shall contain the name of the person nominated, his residence, and the office for which he is nominated, and shall designate the party or principal which such nominee shall represent in as few words as practicable. Each person signing such certificate shall state the official capacity in which he signs the same, and also his place of residence and address. Such certificate may be in the following form or to the following effect, to wit: State of Alabama, _____ county. This is to certify that at a primary of the _____ (state the name of the party), held _____ in and for the _____ of _____, the _____ day of _____, in the year _____, for the purpose of nominating candidates for public office, the following nominations were made to represent said party, to wit: (here state names of candidates, residence, and office for which each candidate is nominated). In witness whereof we have hereunto set our hand this _____ day of _____, in the year _____. Secretary _____, residence _____, postoffice _____, chairman _____, residence _____, postoffice _____.

Oct. 1,
1908, p.
356, § 6.

517. Canvassing board, for canvassing result and making certificate.—For the purpose of making the certificate above required, the executive committee, or other governing body, of any political party in any county, district, or other division of the state, and the state executive committee of any political party, shall be considered canvassing boards to canvass the returns of such primary election, and the certificate so made shall be acknowledged by one or more of the officers signing the same before some officer authorized by law to take acknowledgments.

Ib., § 6.

518. Certificate of nomination; where filed.—The certificate of nomination so filed in the office of the probate judge and secretary of state shall be preserved for at least thirty days after the next succeeding general election, when they may destroy the same.

Ib., § 7.

519. Vacancies of candidates; how filled.—In case of a vacancy in a nomination by death, resignation, or otherwise,

Ib., § 8.

after the certificate has been filed by the probate judge or secretary of state, it may be filled and certified in the same manner as originally made and certified, or in such manner as the governing authority of the party may determine. If such nomination to fill such vacancy cannot be made and certified to the probate judge or secretary of state before the printing of the ballots, provided for by the general laws of the state, it shall be lawful for the chairman of said state, circuit, county, district, or other political division committee or governing body to provide the inspectors of election of each precinct in which such candidate is to be voted for with a number of pasters, containing only the name of such candidate, at least equal to the number of ballots provided for each precinct, but no pasters shall be given to or received in any precinct except to such inspectors of election, and the inspectors of election shall deliver such pasters to the polling clerks, who shall in the presence of the said inspectors put one of such pasters in a careful and proper manner and in the proper place on each ballot.

Oct. 1,
1903, p.
856, § 9.

520. Notice of primary election.—When it shall be desired by the committee or governing authority of any political party to hold a primary election under the provisions of this chapter, said committee or governing authority for the state or political subdivision of the state where such officers are to be nominated shall, at least thirty days prior to such primary election, give public notice thereof by posting said notice at the courthouse door and by advertising in some newspaper published in such subdivision, if there be such newspaper.

Ib., § 10.

521. Qualifications of voters at primary elections.—All persons who are qualified electors under the general election laws of this state shall have the right to participate in such primary elections, subject to such political qualifications as may be prescribed by the state executive or central committee or governing body of such political party. The state executive committee may delegate to the several county executive committees the power to prescribe the qualifications of voters in any primary election for the nomination of county officers.

Ib., § 11.

522. Officers of primary elections.—Officers for each election precinct in all primary elections held under the provisions of this chapter shall be of the same number as required and designated by law to hold regular state elections, and their duties and responsibilities shall be the same as those of legally appointed and regularly qualified officers of regular state elections. They shall be appointed by the regularly organized and constituted committee or governing body of the

political party holding such primary election and shall, before entering upon the discharge of their respective duties, take the same oath required to be taken by officers of regular state elections. The officers in each primary election precinct shall be selected from lists furnished by the various candidates to the committee or governing authority at least ten days before such primary election, and shall be as nearly equally divided as possible as to inspectors, clerks, and returning officers among the various candidate.

523. Officers of primary elections; powers and duties of.—Oct. 1, 1903, p. 366, § 11.
The officers of all primary elections held under the provisions of this chapter shall have the same powers and privileges as officers of regular state elections, and shall be subject to the same restrictions, limitations, and conditions. Any act or deed made an offense against the law by the general election laws of the state in case of officers of state elections is an offense in the case of officers of such primary elections, and shall be punished in the same form and manner as is prescribed by the general law.

524. Watchers named and their duties.—Ib. Any candidate may name a watcher who shall be permitted to be present at the place where the ballots are cast from the time the polls are open until the ballots are counted and certificates of the result of the election signed by the inspectors; the said watchers shall be permitted to see the ballots as they are called during the count.

525. Candidates; how may have name placed on ballot.—Ib., § 12.
Any person desiring to submit his name to voters in primary elections shall, not later than fifteen days next preceding the holding of such primary election, apprise the chairman in writing, or governing authority of the political party holding such primary, of the fact that he is a candidate, and upon complying with the conditions prescribed by the committees or governing authority for the regulation of candidates, he shall be declared to be a candidate for nomination by the committee or governing body of such political party, and any person who has given such notice to the committee or governing authority and who has not complied with the conditions prescribed by the committee or governing authority for the government of candidates, shall not have his name printed on the ballots used in such primary election; but any person desiring to vote for one other than the person whose name is printed on such ballot shall have the right to do so by writing the name of the person for whom he desires to vote in the space on the ballot set apart for the names of the candidates, for such office as he may desire; such person so voted for to be accounted a candidate.

Oct. f.
1908, p.
356, § 18.

526. Counting vote and declaring result of primary election.—The inspectors of primary elections in each precinct shall count the votes immediately on closing the polls and shall thereupon make and sign a statement in writing of the result of such election in such precinct, and shall forthwith post the same in a conspicuous place at such polling place within such time as is provided by law in case of state elections, and in the same manner the election returns of all primary elections shall be deposited with the committee or governing authority of the political party holding the primary, at such place as the committee or governing authority shall designate at which to receive such returns.

Ib.

527. Canvassing returns of primary elections.—The committee or governing authority shall, upon the receipt of such returns, canvass the same and declare the result of the election according to the rules and regulations of the party holding the said primary.

Ib., § 14.

528. Sheriff; duties of, at primary election.—The sheriff of each county, on the day of such primary election, shall be present, in person or by deputy, at all election precincts where such elections are held in each county, and he shall preserve good order, and for the purpose of good order the said sheriff or his deputy may specially depute a sufficient force to act at all election precincts on the day of such election as he may deem necessary, and in case of necessity may raise a posse comitatus to put down riots or attempted riots or disturbances. All duties imposed and powers conferred upon sheriffs in state, county, and district elections by this section are hereby imposed and conferred upon the marshal or chief of police in all municipal primary elections.

Ib., § 15.

529. Arrest of voters on day of election; regulation of.—No person entitled to vote under the rules of the political party holding such primary election shall be arrested on the day of such election, unless it be for a felony or a breach of the peace, attempted or committed on that day; for such breach of the peace or attempted breach of the peace, the sheriff or his deputy, or in case of municipal primary, the marshal or chief of police, may arrest without process and commit to jail until the offender shall give bond with good and sufficient surety, to be approved by the sheriff or marshal or chief of police, as the case may be, for his appearance at the next term of the circuit or city court, or municipal court, in case of municipal primary, to answer any charge that may be brought against him.

530. Political party may fix special rules and regulations for elections.—The party holding such primary election may, by its central or executive committee or other governing

authority, prescribe or fix any rules or regulations for the holding of such primary elections not inconsistent or in conflict with this chapter or the general election laws of this state, and shall, by action taken at least six months prior to any general election, prescribe a uniform date for the holding of such primary election for all state offices. Oct. 1,
1908, P.
356, § 17.

531. Counting ballots; when and how made.—No ballots shall be counted until the polls are closed. Before counting any ballots or examining the same, the poll lists shall be securely sealed in separate envelopes, and each of the inspectors shall write his name across every fold at which the envelope, if unfastened, could be opened. The envelope containing the poll lists and the ballots after they have been counted shall be carried by the returning officer to the chairman of the executive committee or other governing authority of the party holding the primary election. The chairman of said committee or other governing authority shall keep the same until it is known that there will be no contest, and shall then destroy the ballots and also the envelopes containing the poll list, without opening the same. Ib., § 22.

532. Campaign managers or committees.—Any candidate in such election may have a campaign manager or committee of management, by whatsoever name called, and in that event such candidate must give public notice of the same by filing with the judge of probate the names of such managers, or the names of such campaign committee, who shall be required to file with the probate judge of the county in which such election is held the sworn statement required by section 6823 of this Code, under the same penalty prescribed in said section. Ib., § 24.

533. General laws to govern primary election.—Except as provided in this chapter, all primary elections shall be held under the provisions of the general election laws of the State of Alabama, and all provisions of said general laws not in conflict with this chapter shall govern any of said primary elections. Ib., § 25.

534. Poll list to be provided by probate judge.—Each judge of probate shall deliver or cause to be delivered to an inspector at each voting place immediately preceding each primary election an alphabetical list of all persons in such precinct who have paid all poll taxes due prior to February 1st preceding the election, and also an alphabetical list of all persons in such precinct who are registered. Ib., § 26.

535. Ballots; preparation of, for primary election.—The provisions of the general election law relating to official ballots shall not apply to primary elections, and voters shall not be required to prepare their ballots in the voting place. Ib., § 27.

Oct. 1,
1903, p.
356, § 28.

536. Expenses of primary election.—No expenses for any election held under this chapter shall in any way become a charge against the state, or any county or municipality, nor be paid by them.

1b., § 29.

537. Contest; notice of.—All elections held under this chapter may be contested within five days after the result has been declared in all county elections, and ten days in all other except state elections, and in fifteen days in a state election, under the same conditions and on the same grounds as provided in the general election laws; said contest to be heard and tried by the county executive committee or other governing body in elections for county officers, and respectively by district and state committees or other governing body in such respective elections.

CROSS REFERENCES.

ELECTIONS, SPECIAL (Political Code)	439- 445
ELECTIONS TO CHANGE COUNTY SITE (Political Code)	175- 207
ELECTIONS TO ISSUE COUNTY BONDS (Political Code)	158- 174
ELIGIBILITY TO OFFICE (Political Code)	1467-1474
EMBALMING (Political Code)	538- 545
“ (Criminal Code)	6827
EMBEZZLEMENT (Criminal Code)	6828-6843, 6681 7327
EMIGRANT AGENTS (Criminal Code)	6844
EMINENT DOMAIN (Civil Code)	3860-3909
EMINENT DOMAIN MUNICIPALITIES (Political Code)	1439-1442
EMPLOYER AND EMPLOYEE (Civil Code)	3910-3913
EMPLOYERS AND EMPLOYEES, OFFENSES CONCERNING (Criminal Code)	6845-6857
EMPLOYERS' LIABILITY ACT (Civil Code)	3910
ENCLOSURES (Civil Code)	4240-4244
ENGAGING IN BUSINESS WITHOUT LICENSE (Criminal Code)	7712-7715
ENGINEER, RAILROAD (Criminal Code)	5473-5483
ENGROSSING CLERKS (Political Code)	920 et seq.
ENROLLING CLERKS (Political Code)	920 et seq.
ENUMERATION OF SCHOOL CHILDREN (Political Code)	1717, 1718
EQUITABLE ATTACHMENTS (Civil Code)	3179-3192
EQUITY OF REDEMPTION (Civil Code)	4091
EQUITY, RIGHTS AND REMEDIES (Chancery) (Civil Code)	3042-3228
ERROR AND APPEAL (Civil Code)	2837-2895
“ (Criminal Code)	6243-6266
ERRORS (Civil Code)	2892, 3256
ERRORS IN PROBATE, BILLS TO CORRECT (Civil Code)	3914-3917
ESCAPED TAXES (Civil Code)	2195, 2196
ESCAPES (Criminal Code)	6858-6872
ESCHEATS (Civil Code)	3918-3926
ESTATES, FEE SIMPLE, CONDITIONAL (Civil Code)	3396-3444
ESTATES OF DECEDENTS (Civil Code)	2507-2829
ESTRAYS AND ANIMALS RUNNING AT LARGE (Civil Code)	3927-3957
EVIDENCE (Civil Code)	3958-4076
“ (Criminal Code)	6873-6876

CHAPTER 17.

EMBALMERS. 538-545.

SECTION.

- 538. State board of embalming established.
- 539. Appointment and term of office.
- 540. Certificate of appointment.
- 541. Powers and duties of the board.

SECTION.

- 542. Notice of meeting; quorum.
- 543. Embalmers licensed; fee.
- 544. Annual dues.
- 545. Unlawful to practice embalming without license.

538. (1704) State board of embalming established.—There is established the state board of embalming, which shall consist of five members to be appointed by the governor, who shall also have power to fill by appointment all vacancies occurring on the board. The members of the board shall be residents of this state and practical embalmers having experience in the business of embalming and the care and disposition of dead human bodies.

(Dec. 12, 1894, p. 108, § 1.)

539. (1705) Appointment and term of office.—The governor shall annually on the first day of June, or as soon thereafter as practicable, appoint one member of the board who shall serve for a term of five years from the time of his appointment, and any member of the board shall be eligible for reappointment. The governor shall have power to remove from office any member of the board for neglect of duty, incompetency, or improper conduct.

540. (1706) Certificate of appointment.—The governor shall furnish each member of the board a certificate of appointment, and the appointee shall qualify by taking the usual oath of office before an officer authorized to administer oaths in this state within ten days after appointment, and this fact must be noted by the officer on the certificate of appointment.

(Dec. 12, 1894, p. 108, § 4.)

541. (1707) Powers and duties of the board.—For the protection of life and health, to prevent the spread of contagious diseases, and to regulate the practice of embalming and the care and disposition of the dead, the board shall have power and it shall be its duty—

1. To prescribe a standard of efficiency as to the qualifications and fitness of those persons who may engage in the practice of embalming and the care and disposition of dead human bodies.

2. To meet at least once in each year, and oftener as the proper and efficient discharge of its duties may require.

3. To elect annually a president and secretary from the members of the board, who shall serve for one year, or until their successors shall be elected and qualified.

4. To adopt a common seal.

5. To adopt rules and regulations and by-laws not inconsistent with the laws of this state or of the United States, whereby the performance of the duties of the board and the practice of embalming dead human bodies shall be regulated.

(Dec. 12, 1894, p. 108, § 5.)

542. (1708) Notice of meeting; quorum.—At least fifteen days' notice of the time and place of meeting of the board shall be given by publication in at least three daily newspapers published in different cities or towns in the state. Three members of the board shall constitute a quorum for the transaction of business.

543. (1709) Embalmers licensed; fee.—Every person desiring to engage in the practice of embalming dead human bodies in any city or town of fifteen hundred inhabitants or over in this state shall make written application to the state board of embalming for a license, accompanied by a license fee of five dollars, and shall appear before the board at a time and place to be fixed by the board; and if the board shall find upon examination that the applicant is of good moral character, and has a knowledge of the venous and arterial systems, the location of the heart, lungs, stomach, bladder, womb, and other organs of the human body; the location of abdominal, pleural, and thoracic cavities; the location of the carotid, brachial, radial, ulnar, femoral, and tibial arteries; the science of embalming and the care and disposition of the dead, and a reasonable knowledge of sanitation and the disinfection of dead bodies and the apartment, clothing, and bedding of the deceased, in cases of death from infectious or contagious diseases, the board shall issue to the applicant a license to practice the science of embalming and the care and disposition of the dead, and shall register such applicant as a duly licensed embalmer. Such license shall be signed by a majority of the board and attested by its seal. All persons receiving a license shall have it registered in the office of the judge of probate of the county in which it is proposed to carry on said practice, and shall display said license in a conspicuous place in the place where such business is carried on.

544. (1710) Annual dues.—Every registered embalmer must pay annually to the secretary of the board a fee of two dollars for the renewal of registration.

545. (1711) Unlawful to practice embalming without license.—It shall be unlawful for any person not a registered embalmer to practice embalming, but nothing in this chapter shall be construed so as to apply to any person engaged in furnishing burial receptacles only. As amended, Mar. 4, 1901, p. 179, § 1.

CROSS REFERENCES.

EXCEPTIONS (Civil Code)3131, 3137, 3161, 3016-3022
EXECUTIONS AND JUDGMENTS (Civil Code)4077-4159
EXECUTION OF SENTENCE (Criminal Code)...7191-7211, 6580-6592,
 6596, 6602-6605, 6512-6533, 6536-6572, 6575, 7639-7652

CHAPTER 18.

EXAMINERS OF PUBLIC ACCOUNTS. 546-549.

SECTION.

546. Examiner of public accounts, and assistant examiners of public accounts.

SECTION.

547. Commission; authority.
548. Appointment revocable.
549. Examiner's report.

546. (1876) (80) Examiner of public accounts and assistant examiner of public accounts.—The governor is authorized to appoint an expert accountant of known integrity and skill who shall act as examiner of public accounts, and who shall, under the direction of the governor, whenever required so to do, audit and examine the books, accounts, and vouchers of the secretary of state, the auditor, the treasurer, the superintendent of education, commissioner of agriculture and industries, and the wardens of the penitentiary, or such officer as may have charge of the books, accounts, and vouchers pertaining to the state convicts, their hires, and expenses and management, and also the books, accounts, and vouchers pertaining to the revenue receipts and expenses of the University of Alabama, the Alabama Insane Hospitals, the Alabama Polytechnic Institute, the Alabama Institution for the Deaf, Dumb and Blind, the Alabama Girls' Industrial School, and of the several normal schools of the state, and of the several branch agricultural schools of the state, and of any public institution receiving any money from the state treasury. The governor shall direct and control the examiner, and when he deems it necessary may require him to examine the accounts of any state or county officer charged with the duty of collecting or disbursing any part of the public revenue. The said Amended Feb. 7, 1907, p. 10, § 1.

examiner of public accounts shall receive compensation at the rate of eighteen hundred dollars per annum. The governor may also appoint two assistant examiners of public accounts, who shall each be subject to his direction and each invested with all the power and charged with the duties as herein provided with respect to the examiner of public accounts. The compensation of each of the assistant examiners shall be fixed by the governor at not exceeding five dollars per day while actually employed for the state. And the governor may also allow the examiner and each assistant examiner the additional sum of not more than two dollars and fifty cents per day for his expenses while actually employed for the state; and the governor shall prescribe the time for which said examiner and assistant examiners shall be employed. When required by the governor to do so, the examiner or one of the assistant examiners shall have the money in the treasury counted, in which the governor shall require either the auditor, the secretary of state, or the attorney-general, or all of them, to be present to supervise the count and to join in certifying the result to the governor.

(Feb. 12, 1897, p. 840; Feb. 16, 1885, p. 122, § 1.)

547. (1877) (81) Commission; authority.—Commissions shall issue to the examiner and to each of the assistant examiners, vesting in them authority to do and perform the acts mentioned in the last preceding section; and they shall have authority to issue subpoenas for witnesses whom they may have to examine, administer oaths to them, and to compel their attendance, and shall have full authority to require officers whose books and accounts are examined, and their clerks, to render them assistance and to give them information needed in the prosecution of their investigation. Whenever any officer or clerk refuses to render the examiner or either of the assistant examiners assistance, or give them information as required by this section, or any witness fails to attend when summoned, or refuses to testify, the examiner or the assistant examiner, as the case may be, must report the fact forthwith to the supreme court, circuit or city court judge or chancellor, who shall immediately issue a rule to said officer, clerk, or witness to show cause why he should not be committed to jail as for contempt. On the day fixed in said rule, if it has been served, the judge or chancellor must examine said officer, clerk, or witness, if he appears, and unless some lawful reason is shown for such default or refusal, must commit such offending person to jail until he renders the assistance, gives the information, or testifies as required by law. The examiner or the assistant examiner, as the case may be, shall not have

power to prescribe how books and accounts shall be kept, or to regulate the mode for conducting business in any public office; and whenever the legality of any payment is involved, he shall submit the principles of law involved to the attorney-general for his advice and opinion, and be governed thereby. Said examiners or either of them may investigate and examine the books and accounts of any county official whenever directed so to do by the governor at the request of ten reputable bona fide citizens of any county, and in making such examination they shall have the same powers as are conferred upon them by law in and for the examination of state offices, and the examiner thus employed shall make a report of his findings within ten days after the conclusion thereof to the judge of the circuit court or court having like jurisdiction, who shall call the attention of the grand jury thereto.

(Feb. 12, 1897, p. 840; Feb. 16, 1885, p. 122, §§ 2, 5.)

548. (1878) (82) Appointment revocable.—The appointment of the examiner and the appointments of the assistant examiners are revocable at the discretion of the governor. In the event of revocation, the governor may at pleasure appoint a successor.

(Feb. 12, 1897, p. 840; Feb. 16, 1885, p. 122, § 2.)

549. (1879) (83) Examiner's report.—The examiner and the assistant examiners shall, from time to time, report to the governor, under oath, the results of their examination, and the true condition and state of the books and accounts examined at the time of their examinations; such reports shall be public records. Before each session of the legislature, the governor may cause seven hundred and fifty copies of such reports, with such explanations and comments as the governor may think proper, to be printed for the use of the legislature, which said printing shall be done by the public printer, and paid for as other public printing is paid for.

(Feb. 12, 1897, p. 840; Feb. 16, 1885, p. 122, § 3.) Report of state examiner; when not admissible in evidence in other trials.—*Culver v. Caldwell*, 137 Ala. 125 (34 So. 13).

CROSS REFERENCES.

EXECUTOR DE SON TORT (Civil Code)	2801
EXECUTORS AND ADMINISTRATORS (Civil Code)...	2507-2829, 6152-6209
EXECUTORY DEVISE (Civil Code)	3398
EXEMPTIONS FROM TAXATION (Political Code)	2061-2073
EXEMPTIONS (Civil Code)	4160-4237

CHAPTER 19.

EXECUTIVE DEPARTMENT. 550-655.

- ARTICLE 1. GOVERNOR. 550-572.
 ARTICLE 2. SECRETARY OF STATE. 573-596.
 ARTICLE 3. STATE AUDITOR. 597-615.
 ARTICLE 4. STATE TREASURER. 616-633.
 ARTICLE 5. ATTORNEY-GENERAL. 634-640.
 ARTICLE 6. DEPOSITARIES FOR STATE FUNDS. 641-655.

ARTICLE 1.

GOVERNOR. 550-572.

SECTION.

550. Governor's oath; by whom and when administered.
 551. His salary.
 552. Governor controls property of state; exceptions.
 553. Duty as to offices and rooms in capitol.
 554. Governor may negotiate temporary loans to meet deficiencies in treasury.
 555. Private secretary and his salary.
 556. Recording secretary and his salary.
 557. Governor may discontinue services of secretaries.
 558. Private secretary made keeper of the capitol.
 559. His duties as keeper of the capitol.
 560. His pay for services as such keeper.
 561. May employ messenger to executive office.

SECTION.

562. Employment of additional clerks in the state departments.
 563. Servants for executive and judicial offices.
 564. Must employ watchmen at capitol.
 565. Powers of watchmen.
 566. Watchmen, capitol policemen; powers of.
 567. City council of Montgomery, with approval of the governor, may pass ordinances to protect state property.
 568. Governor obtains acts of congress for judges of probate.
 569. Bonds approved by the governor filed with auditor.
 570. When governor may employ counsel.
 571. Must copyright reports and statutes.
 572. Contingent funds.

As amend-
ed, Nov.
22, 1900,
p. 21, § 1.

Const.
1901, § 279.

550. (1953) (66) (65) (67) (53) **Governor's oath; by whom and when administered.**—The oath required by the sixteenth article, section two hundred and seventy-nine of the constitution of this state, may be administered to the governor by the presiding officer of either house of the legislature or by any officer authorized by law to administer an oath, at any place in this state.

(Aikin's Digest, pp. 218, 219; p. 331, § 4; Clay's Digest, pp. 265-267.)

As amend-
ed, Feb. 2,
1903, p.
22, § 1.

551. (1954) (67) (66) (68) (54) **His salary.**—The salary of the governor is five thousand dollars per annum, payable monthly.

(Aikin's Digest, p. 218, § 5; p. 368, § 1; Clay's Digest, p. 516, § 1; Nov. 30, 1857, p. 30; Jan. 19, 1876, p. 202.)

Governor.

552. (1955) (644, 645) (538) (632, 633) (557, 558) **Governor controls property of state; exceptions.**—All property belonging to the state, not including money or evidences of debt, is, unless otherwise provided by law, under the control of the governor.

553. (1956) (57) (56) (58) (50) **Duty as to offices and rooms in capitol.**—The governor must assign rooms in the capitol to the secretary of state, auditor, attorney-general, superintendent of education, treasurer, railroad commission, president of inspectors of convicts, and adjutant general, department of archives and history, state game and fish commissioner, the state tax commission, state health officer; and in the absence of any legislative provision, designate the purposes to which other rooms are to be applied.

554. (1957) **Governor may negotiate temporary loans to meet deficiencies in treasury.**—Should any deficiency occur in the state treasury at any time, the governor may negotiate temporary loans, not to exceed one hundred thousand dollars, or so much thereof as may be necessary, to supply such deficiency.

(Feb. 28, 1889, p. 71.)

555. (1958) (58) (57) (59) (51) **Private secretary and his salary.**—The governor may employ a private secretary, whose annual salary shall be twenty-four hundred dollars, payable as in case of other officers employed at the seat of government; provided, that he shall receive no salary as keeper of the capitol building and grounds, but that the performance of such service shall be a part of his duties as private secretary to the governor, and the sum of twenty-four hundred dollars per annum is appropriated out of the state treasury to pay said salary.

As amended,
Mar.
5, 1903, p.
126, § 1.

(Feb. 22, 1866, p. 88; Feb. 23, 1866, p. 75.)

556. (1959) (59) (58) (60) **Recording secretary and his salary.**—He may employ a recording secretary at an annual salary of fifteen hundred dollars, payable as the salaries of other state officers.

Amended,
Feb. 22,
1907, p.
63, § 2.

(Dec. 9, 1861, p. 89; Feb. 22, 1866, p. 88; Feb. 23, 1866, p. 75.)

557. (1960) (60) (59) (61) **Governor may discontinue services of secretaries.**—The governor may discontinue the services of one or both of such secretaries, whenever the services may be no longer needed.

558. (1961) (61) (60) (62) **Private secretary made keeper of the capitol.**—The private secretary of the governor is made keeper of the capitol, and he is required to perform the duties of that office.

Governor.

559. (1962) (62) (61) (63) **His duties as keeper of the capitol.**—The duties of such office are to take care of the capitol, the grounds, inclosures, furniture, and all other property of the state on the premises under the general control and supervision of the governor; and also in the recess of the legislature, to have the apartments that are not regularly used and occupied, and the public entries, walls, and stairs in each story well cleaned and ventilated.

As amended, Mar. 5, 1903, p. 126, § 1.

560. (1963) (63) (62) (64) **His pay for services as such keeper.**—The private secretary, for his services as keeper of the capitol, shall receive no compensation except as provided in section 555 of this Code.

Amended Feb. 22, 1907, p. 63, § 2.

561. (1964) **May employ messenger to executive office.**—The governor may employ one stenographer or messenger to the chief executive office, whose compensation is nine hundred dollars per annum, payable monthly, on the auditor's warrant, drawn upon the governor's certificate.

562. (1965) (68) (70) (73) **Employment of additional clerks in the state departments.**—1. Whenever the employment of any clerical assistance, in addition to that prescribed by law, in any of the state departments, may become necessary in the transaction of the public business, the head of such department must certify to the governor an application for such additional force, setting forth the contingency and the nature and extent of the work to be done, and that the same cannot be performed within the time that the public interest requires by the regular force employed in such department, and thereupon the governor, being satisfied that the public interest demands such service, must issue an order authorizing the employment of such clerical assistance for such time as he may deem necessary, and cause the application to be filed in his office; and no such clerk or assistant shall be employed until such application is certified and such order passed.

2. All such clerks must perform not less than eight hours' service in every twenty-four hours, or the writing of not less than ten folio pages in every twenty-four hours, for the time for which they are employed.

3. The compensation of such clerks must be paid upon account stated, certified by the head of the proper department that the same is correct, and for services performed under the provisions of this section, and approved by the governor, upon warrant of the auditor, out of any money in the treasury.

(Feb. 13, 1879, p. 176, §§ 1, 2; Feb. 18, 1867, p. 578.)

563. (1966) (69) (71) (74) **Servants for executive and judicial offices.**—The governor must employ not more than four

Governor.

servants for the executive offices of the state at the capitol, and prescribe their duties; the compensation of each servant not to exceed thirty-five dollars per month, and to be paid monthly, on the auditor's warrant, drawn upon the governor's certificate.

Amended
Feb. 22,
1907, p.
63, § 13.

(Feb. 19, 1867, p. 632.)

564. (1967) Must employ watchmen at capitol.—The governor must employ not more than four watchmen at the capitol, and prescribe their duties. The compensation of each watchman is nine hundred dollars per annum, payable monthly, on the auditor's warrant, drawn on the governor's certificate.

Amended
Feb. 21,
1899, p.
245, § 1;
Feb. 22,
1907, p.
63, § 12.

565. (1968) Powers of watchmen.—Such watchmen are invested with all the powers, rights, and privileges of sheriffs as far as may be necessary in the making of arrests and the preservation of order in the capitol and grounds, and preventing injury to the property of the state.

(Feb. 18, 1891, p. 1334, § 1.)

566. Watchmen, capitol policemen; powers of.—The watchmen at the capitol shall be designated as capitol policemen and be required to wear a gray uniform, and they shall arrest any person who sets up a nuisance or commits any depredation within the capitol building or upon the capitol grounds; or any person who injures without permission the flowers or shrubbery therein, or who is guilty of indecent or boisterous conduct, or who throws stones or other missiles at the building or the windows thereof, or who defaces or spits on the walls or floors, or who writes, prints, or makes any letters or figures thereon; each of said acts shall be a misdemeanor, and said policemen shall take such person before the city recorder or any justice of the peace of the city of Montgomery, who shall have power to punish such offender by a fine of not exceeding fifty dollars, and if the same be not paid or secured, he or she shall be imprisoned in the county jail for not more than three days.

Dec. 9,
1896, p.
143, § 1.

567. (1969) City council of Montgomery, with approval of the governor, may pass ordinances to protect state property.—The city council of Montgomery may, with the approval of the governor, pass such ordinances as may be necessary for the protection of the grass, trees, and other public property on the capitol grounds; but no ordinance or by-law of the city council of Montgomery shall be operative within the capitol building or grounds without the consent of the governor.

Governor.

568. (1970) (237) (145) (140) (101) **Governor obtains acts of congress for judges of probate.**—The governor must obtain a sufficient number of the copies of the acts of each session of congress to furnish one copy to the office of each judge of probate, for the use of the citizens of his county.

(Aikin's Digest, p. 304, § 1; Clay's Digest, p. 371, § 1.)

569. (1971) (65) (64) (66) **Bonds approved by the governor filed with auditor.**—All bonds approved by the governor, except the auditor's bond, must be filed in the auditor's office.

(Feb. 8, 1861, p. 39, § 90.)

570. (1972) (17) (17) (21) (20) **When governor may employ counsel.**—When any suit is instituted against any person deriving title from the state to recover any lands within the limits of the same, under pretense of any claim inconsistent with its sovereignty and jurisdiction, the governor, at the expense of the state, must employ counsel and provide for the defense of such suit.

571. (1973) **Must copyright reports and statutes.**—The governor must cause to be copyrighted, for the use and benefit of the state, each volume of the published reports of the decisions of the supreme court, the pamphlet acts of the legislature at each session thereof, and each volume of this Code.

(w.c.o.) **572. Contingent fund.**—There is hereby appropriated annually the sum of five thousand dollars for the contingent expenses of the executive department, to be paid out of the treasury on the warrant of the state auditor under the direction of the governor.

ARTICLE 2.

SECRETARY OF STATE. 573-596.

SECTION.

- 573. Duties of the secretary of state.
- 574. Chief clerk and stenographer of secretary of state; appointment and salary of.
- 575. Bond of secretary of state.
- 576. His salary.
- 577. Fees to be charged by him.
- 578. Duties under section 69, article 4, of the constitution.
- 579. Custody of books.
- 580. Secretary of state authorized to dispose of Alabama reports.
- 581. Secretary of state authorized to dispose of acts, journals, etc.
- 582. Files list of books with the governor and makes returns to the auditor.
- 583. Keeps accounts of sales and money.
- 584. Duty and liability on expiration of office.
- 585. Receipt of doorkeeper sufficient voucher for books, etc.
- 586. Secretary of state distributes acts and resolutions.

SECTION.

- 587. Copies sent judges of probate, for certain officers, and remaining copies sold.
- 588. When duplicate copies furnished to judicial officers.
- 589. Secretary of state may dispose of Codes of 1867, 1876, etc.
- 590. Secretary of state must supply Codes, reports, etc., to counties holding courts in two places.
- 591. To retain fifty copies of journals, and distribute remainder.
- 592. Distribution to Alabama Polytechnic Institute, Alabama Girls' Industrial School, and Institute for Deaf and Dumb and the Blind.
- 593. Distribution of books and papers in relation to public lands.
- 594. The acts of congress to be distributed.
- 595. Distribution of other books and documents.
- 596. Preservation of fuel.

573. (1974) (84) (73) (75) (56) Duties of the secretary of state.—It is the duty of the secretary of state—

1. To keep the state seal, the original statutes and public records of the state, the records and papers belonging to the legislature, keeping the papers of each house separate.

2. To attest commissions, pardons, and all other public documents from the executive of the state, and, when necessary, affix the seal of the state thereto, and certify the same in his official capacity.

3. To record, in books proper for that purpose, all grants and patents issued by the state.

4. To keep all books, maps, and other papers appertaining to the survey of any lands belonging to the state, and the books and papers belonging to the land-office at Courtland.

5. The books, maps, and field-notes of the late surveyor-general of the United States, for this state, are public archives of the state, and the secretary of state must keep them in his office, and must, upon application, give certified copies of the same, which shall be received in evidence in any of the courts of this state.

6. To certify, on application and the payment of lawful fees, copies of all records, grants, papers, and laws of the several states, or of the United States.

7. To make annually, by the thirtieth day of September, a verified and itemized account of all moneys and fees received in his office, and of all payments and disbursements made by him, which must be reported to and filed with the governor, and by him must be transmitted to the next succeeding legislature.

8. To supply the books and stationery to the legislature, the executive, judges of the supreme court, and the several departments of the state.

9. To give notice to the solicitors of the respective circuits or counties of all officers who fail to file their bonds in his office, or make returns of elections, within the time prescribed.

10. He must procure the acts and resolutions of the legislature, of which distribution is directed, to be half-bound and lettered.

11. He must receive from the state printer ten additional copies of all bills, joint resolutions, and memorials printed by order of either house of the legislature, and on the adjournment of each session of the legislature, have one of each of such copies bound together in a cheap form, and file them and the copies not bound in his office.

12. He must, on entering into the contract provided for in section 3320 (965), furnish to the courts of county commissioners, from the records now in his office, exact copies of the field-notes of the original surveys of all the lands in their respective counties; which shall be on books of proper size, to be supplied by such courts, at the close of which he shall append his certificate as to the correctness thereof under the great seal of the state.

13. He is authorized to procure from the general land-office, at Washington City, complete lists of the entries of public lands in Alabama, so as to be enabled to complete the Alabama state tract-books in his office to date; the expense attending the procurement of which to be paid upon his certificate to the auditor, who shall draw a warrant on the state treasurer.

14. He must procure lists of entries of public lands in this state annually, so as to comply with the following subdivision of this section, the expense to be paid as provided in the last foregoing subdivision.

15. He must, by the first day of October, in each year, enter on the tract-books a list of all the lands (not already so entered) sold by the United States, and must make out and furnish each probate judge, by the first day of January, in

Secretary of State.

each year, a register or statement showing all the lands so sold in the county of such judge, and not embraced in any register or statement previously furnished; and he may employ a person at not exceeding thirty cents per page of ordinary foolscap paper, to be paid on the warrant of the auditor, in favor of the person so employed, upon the certificate of the secretary of state, stating that the services have been correctly performed according to the contract, and specifying the amount due therefor.

16. To perform such other duties as he is or may be required to perform by law.

(Aikin's Digest, pp. 383, 384, § § 1, 5; Clay's Digest, p. 530, § § 1, 2, 5; Dec. 4, 1863, p. 109; Dec. 12, 1864, p. 101; Jan. 12, 1852, p. 40; Feb. 19, 1867, p. 644, § 3; Feb. 15, 1854, p. 60; Dec. 8, 1863, p. 107; Feb. 23, 1866, p. 82; Feb. 18, 1854, p. 47; Feb. 12, 1879, p. 188; Mar. 8, 1875, p. 177; Jan. 23, 1872, p. 44.) When connection of the clerk of the house ceases and that of secretary of state begins, as to the journals of the house.—Montgomery Co. v. Gaston, 126 Ala. 425 (28 So. 497); State v. Wilson, 123 Ala. 259 (26 So. 482). Delivery of pardon to secretary of state, as delivery to convict.—Ex parte Powell, 73 Ala. 518.

574. Chief clerk and stenographer of secretary of state; appointment and salary of.—The secretary of state shall appoint a chief clerk and a stenographer, whose terms of office shall be at the pleasure of the secretary of state. The salary of said chief clerk shall be eighteen hundred dollars a year, the salary of the stenographer shall be nine hundred dollars a year, payable monthly, as the salaries of the clerks in other departments are paid.

Mar. 5,
1903, p.
158, §§ 2
and 3; as
amended,
Feb. 22,
1907, p.
63, § 5;
Feb. 9,
1907, p.
35, §§ 1
and 3.

575. (1975) (88) (77) (78) Bond of secretary of state.—The secretary of state must give bond in the sum of ten thousand dollars, to be approved by the governor, and deposited in the office of the auditor.

(Feb. 22, 1866, p. 88; Dec. 7, 1866, p. 155.)

576. (1976) (86) (75) (76) (57) His salary.—The annual salary of the secretary of state is three thousand dollars.

As amend-
ed, Feb.
22, 1907,
p. 63, § 1.

(Aikin's Digest, p. 368, § 1; Clay's Digest, p. 516, § 1, amended Jan. 19, 1876, p. 202; Feb. 22, 1866, p. 88.)

577. (1977) (87) (76) (77) (58) Fees to be charged by him.—He shall charge the person for whom the service is rendered the following fees: For copying any law, or other matter where the copy is desired, fifteen cents for every hundred words; for any certificates, and the annexation of the seal of the state, one dollar; for the issue of a patent, and the annexation of the seal of the state, one dollar; and all such fees shall be paid into the state treasury.

(Feb. 22, 1866, p. 88; acts 53, 54, p. 66, passed over veto; Clay's Digest, 530, § 5; Ib. 158, § 45.)

EXECUTIVE DEPARTMENT.

Secretary of State.

578. (1978) (85) (74) Duties under section 69, article four, of the constitution.—The secretary of state is charged with the duty of making and executing contracts, with the approval of the governor, the auditor, and the treasurer, required by section 69, of article four, of the constitution, as follows:

1. The secretary of state shall, from the best information he can obtain, fix a maximum price at which all stationery, paper, and fuel, used by the legislature, or by other departments of the state government, shall be purchased by the state, and the maximum price for the distribution of laws, journal, and department reports, printed, bound, or distributed for the state, and also a maximum price for any repairing or furnishing the halls and rooms used for the legislature, or its committees, which may at any time seem to him to be necessary; and having so fixed such maximum price shall, at the times prescribed in section 1649 (3387), advertise for bids for furnishing such supplies or doing such work for the state, in not less than two nor more than four newspapers published in this state, one of which to be published at the city of Montgomery, at a price not to exceed the maximum fixed.

2. Such advertisement shall be made for at least three successive weeks, by giving at least one insertion of the same in each week in such papers, inviting sealed proposals for furnishing the proposed materials or work, naming in such advertisement a day after which such bids will close; and immediately after the day named, or as soon thereafter as practicable, the secretary shall open such bids as may have been received for the specified materials or work advertised for, and shall accept the lowest responsible bid for the same below the maximum price, subject to the approval of the governor, the auditor, and the treasurer of the state, after the contract has been executed by and between the secretary of state and such accepted bidder.

3. The secretary of state shall, from the best sources of information obtainable, ascertain the probable amount of supplies needed in any fiscal year, or the probable amount of work or repairs needed for any given time during the term of his office, and contract for same in such quantity and amount as, in his judgment, will be for the best interest of the state; and to this end he may call on the heads of the other departments of the state government for such estimates of work and materials needed by them, which estimates shall be so furnished when called for.

4. Before any such contract shall be submitted to the governor, auditor, and treasurer for their approval, the contractor shall furnish to the secretary of state bond, with good and sufficient surety, in double the amount involved in such

Secretary of State.

contract, conditioned for the faithful performance of the same, to be approved by him, which bond so approved shall accompany such contract when the same is presented for the approval of the governor, auditor, and treasurer, and, when so approved by them, shall be a valid contract; and all such bonds shall be filed in the office of the secretary of state and there recorded.

5. Whenever requested by the secretary of state, the governor, auditor, and treasurer shall meet in the office of the governor, or of the secretary of state, for the purpose of examining any contract made under this section, and each of them shall indorse thereon in writing his approval or disapproval thereof, if the same is accompanied by the bond required by subdivision 4 of this section.

6. In case the lowest responsible bidder shall fail to execute his contract or give the required bond under this section, then the secretary of state shall award the contract to the next lowest responsible bidder, and in case of a second failure, then the next lowest responsible bidder, and so on until a contract is executed and approved; and in case all the bids are exhausted and no contract concluded, then he may proceed to readvertise as before, until the object is accomplished.

7. The bid of no member or officer of any department of the state government shall be accepted, nor any bid in which it may be ascertained that any such member or officer is in any way interested; and any such contract, if made, shall be void, and no payment shall be made thereon.

8. The secretary of state must pass upon the compliance of any contract made in pursuance of this section; if he shall find the same to conform in every respect to the terms and stipulations of the contract, he shall certify the same, together with the amount due thereon, to the auditor, who shall draw his warrant on the treasurer, in favor of the party entitled thereto, for the amount so certified by the secretary of state.

(Mar. 7, 1876, p. 120.)

579. (1979) (89) (78) (79) Custody of books.—The secretary of state has the charge of all books owned and kept for sale by the state, and it is his duty to sell the same; and he is liable upon his official bond for failure of any of the duties imposed in selling the same, and for failure to pay over the money received therefor.

(Feb. 12, 1867, p. 397, § 1.)

580. Secretary of state authorized to dispose of Alabama Reports.—The secretary of state shall sell the volumes of the reports of the decisions of the supreme court of Alabama, now in his possession, at the price of two dollars and fifty

Feb. 13,
1897, p.
921, § 1.

cents per volume; but he shall not sell more than one copy of each volume to any person, corporation, or mercantile firm; and he must retain six copies of each volume for the use of the state.

Feb. 7,
1899, p.
216, § 1.

581. Secretary of state authorized to dispose of acts, journals, etc.—The secretary of state may dispose of, at public or at private sale, in such quantities and at such price as may be deemed most expedient, all acts, journals, codes, department reports, and all other books now in his custody, excepting the reports of the supreme court of Alabama and the codes of 1907; provided, that ten copies of each series of the acts and ten copies of the journal of each session of the house and senate, and five copies of the codes issued prior to 1907 shall be preserved and kept in the custody of the secretary of state.

582. (1980) (90) (79) (80) Files list of books with the governor and makes returns to the auditor.—He must, at the commencement of his term of office, file in the governor's office a list of such books as come into his possession for sale, and he must, at the end of every quarter of such term, return to the auditor a certified statement showing the number and description of books sold, and the amount of money received therefor at prices fixed upon such books, and pay the same into the treasury for the use of the state.

(Dec. 6, 1878, p. 70; Feb. 12, 1867, p. 397, § 2.)

583. (1981) (92) (81) (82) Keeps account of sales and money.—He must keep in his office a book in which shall be entered an account of books sold, and of money paid over.

(Feb. 12, 1867, p. 397, § 4.)

584. (1982) (91) (80) (81) Duty and liability on expiration of office.—At the end of his term of office, or his resignation, he must file in the office of the governor a full statement of the books sold and remaining on hand, to be turned over to his successor, and is liable on his bond for failure to comply with the requisitions of this section and the five preceding sections.

(Feb. 12, 1867, p. 397, § 3.)

585. (1983) Receipt of doorkeeper sufficient voucher for books, etc.—The receipt of the doorkeeper of the senate or house of representatives is a sufficient voucher for the secretary of state for each book so receipted for; and a receipt of a member of either house to the doorkeeper thereof is a sufficient voucher for the doorkeeper.

(Feb. 2, 1895, p. 322.)

Secretary of State.

586. (1984) (232) (140) (135) (96) Secretary of state distributes acts and resolutions.—The secretary of state must retain for the use of the executive offices, and the two houses of the legislature, one hundred and fifty copies of both volumes of the acts and resolutions of each session, and transmit to the department of state of the United States two copies of each volume, to the executive of each state and territory two copies of the general laws, with the request to forward to the executive of this state the same number of copies of the laws of such state or territory; and distribute to the governor, secretary of state, state treasurer, state auditor, attorney-general, superintendent of education, commissioner of agriculture and industries, examiner of public accounts, state health officer, adjutant-general, president of the convict bureau, president of the railroad commission, state game and fish commissioner, department of archives and history, state tax commissioner, clerk of the supreme court, secretary of the senate, and clerk of the house of representatives, one copy of each volume, and to the president of the University of Alabama, for the law department, two copies of each volume; to each chancellor, judge of the supreme, circuit, or city court, solicitor, United States district judge, and United States district attorney in this state, one copy of each volume; four copies of each volume to the supreme court library, and one copy of each to the department of justice of the United States, and to the United States circuit court of appeals for the fifth circuit; also two copies of each volume to the librarian of congress at Washington for the purpose of copyright.

Amended
Feb. 23,
1899, p.
85, § 1.
(r.o.c.)

(Aikin's Digest, p. 303, § 8; Feb. 22, 1876, p. 346.)

587. (1985) (234) (142) (136) (97) Copies sent judges of probate, for certain officers, and remaining copies sold.—He must also transmit to the judge of probate of each county, for such judge, each member of the legislature, clerk of any court of record, sheriff, and register in chancery, one copy of each volume, and for each justice of the peace within his county, one copy of the general laws, and the remaining copies must be sold as other books and documents the property of the state, at two dollars for the two volumes, and the proceeds thereof paid into the treasury.

Ib. § 2.

(Feb. 19, 1867, p. 645.)

588. (1986) (235) (143) When duplicate copies furnished to judicial officers.—Whenever any of the supreme court reports, or other books furnished by the state to the judicial officers thereof, have been destroyed without fault on their part, or on the part of their predecessors in office, the secretary of state shall furnish to the incumbents duplicate copies,

(r.o.c.)

if in the possession of the state, and not required for use by the state, or otherwise appropriated; but before he shall do so the secretary of state shall be satisfied by affidavit, or other evidence, that such books were destroyed without fault on the part of such officers or their predecessors.

(Feb. 7, 1876, p. 272.)

Dec. 9,
1896, p.
322, § 1.
(r. c. c.)

589. Secretary of state may dispose of Codes of 1867 and 1876, etc.—The secretary of state is authorized to sell all the copies of the Codes of 1867 and 1876, 1886 and 1896 now in his possession, except ten copies of each of said codes, for the highest price obtainable therefor, but not less than one dollar per volume, and the sum received for the same shall be paid into the state treasury.

Oct. 9,
1903, p.
416, § 1.

590. Secretary of state must supply Codes, reports, etc., to counties holding courts in two places.—The secretary of state of the State of Alabama, in addition to the copies of all reports of the executive, legislative, and judicial departments now required to be distributed by him by law, shall deliver to the judge of probate of each county where there is more than one place of holding courts of record therein, additional and further copies of all such reports, which shall be kept at such other place or places of holding such courts of record in such county and accounted for as required by law, and such other and further reports shall include all codes, digests, statutes, journals, and supreme court reports, and all other publications of a public nature.

591. (1987) (236) (144) (137) (98) To retain fifty copies of journals, and distribute remainder.—He must retain fifty copies of the journals of each house, for the use of the executive offices and members of the legislature, and must distribute to the state officers designated in section 586 (1984) one copy each; the remaining copies must be transmitted to the judges of probate of the several counties, in proportion to their population, to be by them distributed among the civil officers of their counties.

(r. c. c.)

592. (1988) (233) (141) Distribution to Alabama Polytechnic Institute, Alabama Girls' Industrial School, and Institute for Deaf and Dumb and the Blind.—It shall be the duty of the secretary of state to furnish the Alabama Polytechnic Institute, Alabama Girls' Industrial School, and the Deaf, Dumb and Blind Institute, at Talladega, with a copy each of such reports of the several departments of the state, and of the trustees of the state university, and committees visiting the university and asylum, as may be made to the different sessions of the legislature, and also a copy each of the jour-

nals of the senate and house of representatives, for permanent preservation in their libraries.

(Feb. 9, 1877, p. 82.)

593. (1989) (238) (146) (141) (102) Distribution of books and papers in relation to public lands.—Books and documents in relation to the public lands, after retaining one copy for the use of the executive and state departments, and one for the supreme court library, are to be distributed by the secretary of state among the judges of probate, for the use of the citizens of their respective counties.

(Clay's Digest, p. 372, § 3.)

594. (1990) (239) (147) (142) (103) The acts of congress to be distributed.—The acts of congress are to be sent to each of the judges of probate, and the expense thereof paid out of the state treasury, on warrant of the auditor, drawn upon the certificate of the secretary of state.

(Aikin's Digest, p. 304, § 2; Clay's Digest, p. 372, § 2.)

595. (1991) (240) (148) (143) (104) Distribution of other books and documents.—The other books and documents are to be distributed with the acts and journals.

596. (1992) (93) (82) (89) Preservation of fuel.—The secretary of state must provide that the fuel of the state, after being delivered, is preserved from waste, and any sum necessary for this purpose must be paid out of any money in the treasury, on the warrant of the auditor, upon account and certificate of the secretary of state that the account is correct and according to contract, and approved by the governor, and that the sum was necessary to protect the state against loss in the waste of fuel. (r.o.c.)

(Feb. 18, 1867, p. 573, § 3.)

EXECUTIVE DEPARTMENT.
State Auditor.

ARTICLE 3.

STATE AUDITOR. 597-615.

SECTION.

- 597. Bond of auditor.
- 598. Seal and its device.
- 599. His duties.
- 600. His salary and fees.
- 601. Office under superintendence of governor.
- 602. Clerks; salary.
- 603. Qualifications and duties of clerks.
- 604. Official acts.
- 605. Duration of appointment.
- 606. Auditor to keep bonds approved by the governor.
- 607. May require proof of correctness of claim.

SECTION.

- 608. Evidence preliminary to payment from contingent fund.
- 609. Register of bonds in office.
- 610. Must not draw warrant in favor of defaulter.
- 611. Not to receive revenue unless expressly authorized.
- 612. Accounts against state to be itemized and verified.
- 613. When required to issue duplicate warrant.
- 614. Fiscal year.
- 615. Bonds, etc., deposited with auditor, and payments made to treasurer.

597. (1993) (94) (83) (90) (59) Bond of auditor.—The state auditor must, before entering on the duties of his office, give bond in the sum of twenty thousand dollars, which bond must be approved by the governor, and filed and recorded in the office of the secretary of state.

Original statute providing for passed Mar. 1, 1806.—Toulmin's Digest, p. 759. (Aikin's Digest, pp. 194-199; § 2; Clay's Digest, pp. 242-246, § 2.)

598. (1994) (95) (84) (91) (61) Seal and its device.—He must keep a seal with the device, "The State of Alabama, State Auditor's Office."

(Aikin's Digest, p. 195; Clay's Digest, p. 243, § 6.)

599. (1995) (96) (85) (414) (365) His duties.—It is the duty of the state auditor—

1. To superintend the fiscal affairs of the state, as required by law.
2. To keep and preserve in his office, in suitable books, fair and accurate accounts between this state and the United States, including the two and three per cent funds, the surplus revenue funds, and the funds arising from the distribution of the sales of the public lands.
3. To keep the accounts in relation to the school fund, and every other special or trust fund in which the state is interested, the keeping of which is not specially intrusted to other offices.
4. To keep an account of all state bonds issued and paid, and of all interest paid.
5. To keep all accounts between the state and the state treasurer, charging him with the balance due when he came into office, and with all moneys received by him, and crediting him with all warrants drawn on the state treasury and paid by him.

State Auditor.

6. To audit and adjust the accounts of all public officers, keeping a regular account with every person in each county in the state who is by law authorized to collect and receive any part of the state revenue, in suitable books, in which he must charge such persons with all sums of money due from them severally, and credit each with all moneys paid by him to the state treasurer, having first certified to that officer the amount of balance due.

7. To examine and adjust the claims of all persons against the state, where provision for the payment thereof has been made by law.

8. To draw warrants on the state treasurer for the payment of all moneys directed by law to be paid out of the treasury in favor of the person authorized to receive the same; stating in such warrant on what account the same is due, and in case of special appropriation, referring to the law under which it is drawn.

9. To direct the forms to be used by all public officers in collecting, keeping the accounts, and making returns of the state revenue.

10. To have printed by the state printer, immediately after each session of the legislature, all laws in relation to the revenue passed at such session, and to send a copy certified by the secretary of state to each of the tax assessors, tax collectors, and judges of probate.

11. To take and keep copies of his official letters.

12. To take receipts for all warrants he draws, and to preserve, arrange, and file in his office all such receipts, and all accounts by him allowed, with the vouchers and papers relating to the same.

13. To proceed against all defaulters, as required by law.

14. To publish in some newspaper at the seat of government, annually, a list of defaulters to the state, whose accounts have remained due and unpaid for one year, with the amount due from each, how the debt accrued, and when it became due.

15. To keep a docket of all suits brought against defaulters, showing the time when commenced, to what sheriff directed, the sheriff's return, and when and how settled.

16. To examine all bonds for the two per cent fund, and all other securities for money belonging to the state, kept in his office, from time to time, as to the sufficiency of the securities; and on discovering any deficiency therein, forthwith to report the same to the governor, and to put such bonds or securities in suit when necessary for the collection of the principal and interest.

17. To report annually, in writing, to the governor, to be

EXECUTIVE DEPARTMENT.

State Auditor.

laid before the legislature, his views as to the proper subjects of taxation, with such plans and estimates as in his opinion are expedient for using the public money to the best advantage for diminishing the public expenses, and sustaining the credit of the state; detailed estimates of the expenditures to be defrayed from the treasury for the four ensuing years must accompany the report, and also tables showing in detail the names of all persons in whose favor warrants have been drawn for the preceding fiscal year, when drawn, under what law in case of special appropriations, and for what amount; the amount of total assessments made in each county for the same year, showing in separate columns the amount of total assessments on each item of taxation, the amount in each county for retail and other licenses, the amount of insolvencies, of commissions, the net amount of revenue paid into the treasury for such year, the condition of the school fund, the two and three per cent fund, and all other funds, the accounts of which are by law required to be kept in his office.

18. He shall embrace in his report a detailed statement of all payments made from the contingent fund during the fiscal year, setting forth the date and nature of the claim, and name of the person in whose favor each warrant was drawn, and the same must be printed in connection with his report upon the finances.

19. To condense his report as far as consistent with an intelligent understanding of its material parts, and to have fifteen hundred copies of the same printed for the use of the legislature as soon as practicable after the close of the fiscal year.

20. To keep a book in which he shall make an entry of the amount of taxes received from each county, and from whom received; and the entries in such book shall be embraced in his annual report.

21. He must certify under his official seal, at all times when necessary for the public use, and on application and payment of the legal fees therefor, for private or personal use, copies of any paper required to be kept in his office.

22. To perform such other duties in relation to the fiscal affairs of the state as are, or may be required of him by law.

(Aikin's Digest, p. 81, § 1; p. 195, §§ 3, 4; p. 196, §§ 9, 10, 12, 14, 15; Clay's Digest, p. 243, §§ 3, 4, 8, 9, 10, 11, 13, 14, 16; Feb. 28, 1889, p. 73, §§ 1, 2; Dec. 17, 1873, p. 37, § 7; Dec. 12, 1876, p. 91; Nov. 9, 1861, p. 69; Feb. 3, 1858, p. 13.) Duty to refund taxes paid by mistake is purely a ministerial duty.—*White v. Smith*, 117 Ala. 232 (23 So. 525). Auditor is a public officer who requires a salaried compensation. The constitution denominates him an executive officer, but many of his duties are ministerial, but others quasi-judicial.—*Brewer v. Watson*, 65 Ala. 88. Liability of auditor for refusal to allow inspection of books of his office.—*Brewer v. Watson*, 61 Ala. 310, s. c., 65 Ala. 88, s. c., 71 Ala. 299. Duty to audit account as to sale of land at tax sale.—*Burke v. Blan*, 79 Ala. 101. Mandamus to compel auditor to draw warrant to pay for public printing.—*Ib.* Transcript from auditor's office as

State Auditor.

evidence.—*Stanley v. State*, 88 Ala. 154 (7 So. 273). Liability of auditor to tax collector for over-payment of taxes into state treasury.—*Lott v. Brewer*, 64 Ala. 287. Liability of Auditor to sheriff for fees and mandamus to compel payment.—*State v. Brewer*, 62 Ala. 215. When mandamus lies against auditor.—*Ib.* Certificate of auditor as prima facie proof.—*Timberlake v. Brewer*, 59 Ala., 108. Summary proceedings against tax collector and sureties on his bond for failure to pay over taxes collected.—*Timberlake v. Brewer*, 59 Ala. 108. Matter within spirit and equity of the statute, though not expressly provided for.—*Burke v. Blan*, 79 Ala. 101.

600. (1996) (97) (86) (93) (63) **His salary and fees.**—The annual salary of the state auditor shall be three thousand dollars, to be paid in such manner as is now prescribed by law; and he must charge fifty cents for each impression of his official seal for private or personal use, and for other services the same fees as the secretary of state for similar services; and all such fees shall be paid into the state treasury.

Nov. 30,
1896, p.
76, § 1;
Amended
Feb. 22,
1907, p.
63, § 1.
(r.c.c.)

(*Aikin's Digest*, p. 368, § 1; *Clay's Digest*, p. 516, § 1; Dec. 4, 1876, p. 67; Feb. 22, 1866, p. 88, §§ 1, 4.) Constitution of 1868 did not prohibit a reduction of the salary of the auditor.—*Dane v. Smith*, 54 Ala. 47.

601. (1997) (98) (87) (94) (64) **Office under superintendence of governor.**—The office of the state auditor is under the general superintendence of the governor.

602. (1998) (99) (88) (95) **Clerks; salary.**—The state auditor may employ six clerks in his office, and remove them at pleasure: a chief clerk whose salary shall be eighteen hundred dollars per annum; a warrant clerk, whose salary shall be eighteen hundred dollars per annum; a general bookkeeper, whose salary shall be fifteen hundred dollars per annum; a land clerk, whose salary shall be fifteen hundred dollars per annum; a filing clerk, whose salary shall be twelve hundred dollars per annum; a stenographer and pension clerk, whose salary shall be nine hundred dollars per annum, payable as the salaries of other officers are paid; and for additional clerical assistance in that office there is appropriated annually the sum of twelve hundred dollars, or so much thereof as may be necessary.

As amended,
Feb.
16, 1897,
p. 1142, §
1; Feb. 22,
1907, p.
63, § 4;
Feb. 15,
1907, p.
44.

(Feb. 10, 1852, p. 81; Feb. 22, 1866, p. 88; Feb. 23, 1866, p. 75; Feb. 10, 1852, p. 81, § 3; Dec. 12, 1884, p. 87, § 1; Feb. 18, 1895, p. 780.)

603. (1999) (100) (89) (96) **Qualifications and duties of clerks.**—Such clerks must, before entering upon their duties, comply with such requisitions as the state auditor may prescribe for his own security, and take an oath faithfully to discharge all such duties in the auditor's office, and connected with it, as are, or may be confided to them, and also the oath required of public officers.

(Dec. 12, 1884, p. 87, §§ 1, 2; Feb. 10, 1852, p. 81.)

604. (2000) (101) (90) (97) **Official acts.**—The official acts of one of these clerks, to be assigned as chief clerk by the state

auditor, shall be presumed to be by the authority of, and shall be taken as done by the state auditor, who shall be responsible for the same.

(Feb. 10, 1852, p. 81; Dec. 12, 1884, p. 87, § 3.)

605. (2001) (102) (91) (98) Duration of appointment.—The appointment of such clerk shall not be for a longer time than four years, and shall not continue longer than the incumbent making the appointment remains in office.

(Dec. 12, 1884, p. 87, § 4; Feb. 10, 1852, p. 81.)

606. (2002) (103) (92) (99) Auditor to keep bonds approved by the governor.—The state auditor must keep all bonds approved by the governor and place them in his iron safe or vault for safe keeping.

(Feb. 8, 1861, p. 39.)

607. (2003) (104) (93) (418) (366) May require proof of correctness of claim.—The state auditor has authority to require information on oath, to be by him administered, from any person, touching any claim or account he is required to audit.

(Aikin's Digest, p. 196, § 8.)

608. (2004) (105) (94) (416) Evidence preliminary to payment from contingent fund.—No money shall be paid out of the contingent fund, except upon account stated, setting forth the items upon which payment is claimed, signed by the proper person, with such authentication as the governor may require of the correctness of the same.

609. (2005) (106) (95) (417) Register of bonds in office.—All bonds of the state, redeemed or paid, must be registered in the state auditor's office.

610. (2006) (107) (96) (419) (367) Must not draw warrant in favor of defaulter.—He must not give any public defaulter any warrant for moneys due him from the state, except the balance which is due after the application of the amount due from the state to the extinguishment of the debt, interest and damages, if any are given by law, due from such defaulter.

(Aikin's Digest, p. 196, § 13; Clay's Digest, p. 244, § 12.) It is the fact of default, not its ascertainment, which authorizes withholding of money due an officer.—*State v. Brewer*, 62 Ala. 215. *Mandamus proper remedy.*—*Ib.*

611. (2007) (108) (97) (420) (368) Not to receive revenue unless expressly authorized.—The state auditor has no authority, in any suit or proceeding by him commenced or directed, or in any other case, unless such authority is expressly given, to receive any of the state revenue.

State Treasurer.

612. (2008) (109) (98) (421) (369) **Accounts against state to be itemized and verified.**—All accounts against the state must be accurately and fully itemized, and accompanied with the affidavit of the person, stating the correctness of the same, and that no portion of such account has been paid.

(Amended Feb. 1, 1876, p. 200.) Claims for taxes paid by mistake need not be verified or itemized.—*White v. Smith*, 117 Ala. 232 (23 So. 525).

613. (2010) (111) (100) **When required to issue duplicate warrant.**—The state auditor must issue duplicate warrants upon the treasury, whenever he is satisfied that the original warrant has been destroyed or lost; and the party holding the duplicate shall have the same right as if he held the original, and the treasurer is authorized to pay the same.

(Dec. 16, 1869, p. 22.)

614. (2011) (112) (355) (424) (371) **Fiscal year.**—The fiscal year ends on the thirtieth day of September.

615. (2012) (643) (537) (431) (385) **Bonds, etc., deposited with auditor, and payments made to treasurer.**—All bonds and other securities for money belonging to the state, or under the control thereof, are to be deposited with, and kept in the office of the state auditor, and all payments on the same must be made to the state treasurer, being first certified to him by the state auditor.

ARTICLE 4.

STATE TREASURER. 616-633.

SECTION.

- 616. Treasurer's bond; amount of.
- 617. Treasurer's bond; security; character of; how made.
- 618. Premiums for guarantee bond; how paid.
- 619. Jurisdiction of actions upon treasurer's bond.
- 620. Settlement of accounts and delivery of books, etc., on removal or resignation.
- 621. When auditor to state accounts, etc.
- 622. Governor has superintendence of office.
- 623. His salary.
- 624. Duties of treasurer.
- 625. Clerks of treasurer; appointment and salaries of.

SECTION.

- 626. Fiscal agency in New York for payment of interest.
- 627. Money for payment of interest; how drawn.
- 628. How money sent to fiscal agency.
- 629. Payment of interest in New York.
- 630. When treasurer not liable for loss in providing for payment of interest.
- 631. Custodian of state bonds redeemed, and duties in reference to them.
- 632. Must record paid and canceled coupons.
- 633. When duplicate of lost or destroyed registered state bonds may issue.

616. (2013) (144) (101) (100) (65) **Treasurer's bond; amount of.**—The bond of the state treasurer of the State of

State Treasurer.

As amend- Alabama shall be in the sum of one hundred and fifty thousand
ed, Dec. dollars, and must be approved by the governor of the state.
1, 1898, p.
242, § 1.

(Aikin's Digest, pp. 423-426, §§ 3, 4; Clay's Digest, pp. 575-577, §§ 3, 4; Feb. 8, 1861, p. 80.) Original statute providing for passed in 1803—Toulmin's Digest, pp. 757 et seq.

Ib. **617. (2013) (144) (101) (100) (65) Treasurer's bond; security, character of; how made.**—The bond of the state treasurer shall be made, secured, and insured by two or more qualified guarantee companies, which companies have qualified to do business in this state, and which have deposited with the state treasurer at least fifty thousand dollars' worth of securities, as required by law. If the state treasurer is unable to procure bond in such guarantee companies, satisfactory to himself and the governor, then in that event, the treasurer may make bond with personal sureties, to be approved by the governor.

Ib. **618. Premiums for guarantee bond; how paid.**—In the event the bond of the state treasurer shall be secured or insured by guarantee companies, the amount of the annual premiums to be paid said guarantee companies for such suretyship or insurance of said bond is appropriated out of the funds in the state treasury; such annual premiums shall not exceed five hundred dollars per annum.

Ib., § 2. **619. Jurisdiction of actions upon treasurer's bond.**—In all actions upon the bond of the state treasurer or against the sureties or insurers of such bond, the courts of the State of Alabama shall have exclusive jurisdiction, and this shall be deemed a condition of such bond.

620. (2014) (115) (102) (101) (67) Settlement of accounts and delivery of books, etc., on removal or resignation.—If the state treasurer resigns or is removed, he must immediately after such resignation or removal, deliver the books, papers, and money belonging to the treasury, to his successor, taking a receipt therefor; and must, within ten days after resignation or removal, state his account; and the state auditor must record and file in his office a statement of such settlement and receipt, and report the same to the next session of the legislature.

(Aikin's Digest, p. 424, § 6; Clay's Digest, p. 576, § 5.)

621. (2015) (116) (103) (102) (68) When auditor to state accounts, etc.—If the state treasurer, in the event of his resignation or removal, fails to comply with the provisions of the preceding section, or if he dies or absconds, the state auditor must immediately proceed, in the presence of any person attending on the part of such late treasurer, to state his account, and deliver the books, papers, and moneys belonging

State Treasurer.

to the treasury to his successor, taking his receipt for the same; to record and file such receipt and statement, and report the same to the next legislature.

622. (2016) (117) (104) (103) (69) **Governor has superintendence of office.**—The governor shall exercise a general superintendence over the office of state treasurer.

623. (2017) (118) (105) (104) (70) **His salary.**—The annual salary of the state treasurer is three thousand dollars.

As amended, Feb. 22, 1907, p. 68, § 1.

(Aikin's Digest, p. 368, § 1; Clay's Digest, p. 516, § 1; amended Jan. 19, 1876, p. 203; Feb. 22, 1866, p. 88, § 1.)

624. (2018) (120) (107) (422) (370) **Duties of treasurer.**—It is the duty of the state treasurer:

1. To receive and keep the moneys of the state.
2. To pay all warrants drawn under the authority of law by the state auditor on the state treasurer, and to pay no money out of the treasury except on the warrant of the state auditor.
3. To take receipts for all payments.
4. To file such receipts and warrants, and to number the same in chronological order, for each fiscal year.
5. To keep accounts of the receipts and expenditures of the public money.
6. To enter in his books the amount of money he receives for (r.o.c.) taxes, licenses, or on any other account for the state, so that the net proceeds of the whole revenue, as well as every branch thereof, and the amount of disbursements, distinctly appear.
7. To give information in writing to the legislature, or either house thereof, or to the governor, when required, reporting all matters appertaining to his office.
8. To report annually, in writing, to the governor, to be laid before the legislature, the amount paid into the treasury for the preceding fiscal year, showing the amount paid in by each county and distinguishing such counties as have made partial payments from those which have paid in full; also statements of all sums of money he has paid out on account of the state for such year, specifying the amount, to whom paid, and for what, with an exact statement of the balance in the treasury.
9. To condense his report, as far as is consistent with an intelligent understanding of its material parts, and to have fifteen hundred copies of the same printed for the use of the legislature, as soon as possible after the close of the fiscal year.
10. To act as agent for the state, to receive the whole or any portion of the two and three per cent fund, and to give on the part of the state his receipt therefor.

State Treasurer.

11. To perform such other duties in relation to the fiscal affairs of the state as are, or may be, by law required of him.

(Aikin's Digest, p. 423, § 2; p. 424, §§ 7, 8, 10, 12, 13; Clay's Digest, p. 575, §§ 2, 6, 7, 8; Feb. 23, 1889, p. 73, § 3; Feb. 3, 1858, p. 13; Dec. 12, 1876, p. 91; Feb. 9, 1852, p. 51.)

Mar. 4,
1908, p.
154, § 1;
Feb. 22,
1907, p.
63, § 6.

625. Clerks of treasurer; appointment and salaries of.—The state treasurer may employ a chief clerk and two assistant clerks and one stenographer in his office, and remove them at pleasure. The chief clerk shall receive an annual salary of eighteen hundred dollars, and the two assistant clerks shall receive an annual salary of fifteen hundred dollars each, and the stenographer shall receive an annual salary of seven hundred and fifty dollars, payable as the salaries of other officers are paid, and each of them must, before entering upon his duties, comply with such requisitions as the treasurer may prescribe for his own security.

626. (2019) (121) Fiscal agency in New York for payment of interest.—For the purpose of paying the interest on the bonded indebtedness of the state, which is payable in the city of New York, the state treasurer, with the written approval of the governor, shall, from time to time, as he may see fit, designate some well-known, responsible, solvent bank or banking house in such city, at which such interest will be paid.

(Jan. 22, 1885, p. 89, § 1.)

(r.o.c.)

627. (2020) (122) Money for payment of interest; how drawn.—Not less than one month, nor more than two months, before the first days of January and July of each year, the state treasurer must certify to the governor the amount of money which will probably be needed to pay the interest on the bonded indebtedness of the state falling due next thereafter, and payable in the city of New York, and at the treasury of the state; and the governor shall thereupon, in writing, direct the state auditor to draw his warrant on the treasury in favor of the treasurer for such amount, or so much thereof as the treasurer may deem necessary, to be paid out of any fund appropriated for the payment of interest on such indebtedness; and upon the receipt of such warrant, the state treasurer shall enter the amount thereof, on the appropriate book of his office, to the credit of "Interest Account," and shall thereafter, from time to time, debit such account with amounts paid on such interest at the treasury, and at the fiscal agency provided for in the preceding section, and for the expenses necessarily incurred in providing for the payment of such interest.

(Feb. 4, 1893, p. 238; Jan. 22, 1885, p. 89, § 2.)

628. (2021) (123) How money sent to fiscal agency.—The money to pay the interest on such bonded indebtedness, which

State Treasurer.

is to be paid in the city of New York, shall be, by the state treasurer, remitted by express or otherwise, as he may deem best, to the fiscal agency in such city, without taking out special insurance, except in cases where the governor in writing directs such insurance to be taken out.

629. (2022) (124) Payment of interest in New York.—It is the duty of the fiscal agent in the city of New York to pay the interest on the bonded indebtedness of the state, upon presentation of the proper coupons and checks, and, upon payment, to immediately cancel such coupons and checks, and to forward the same to the state treasurer, by express or otherwise, as he may direct.

630. (2023) (125) When treasurer not liable for loss in providing for payment of interest.—The state treasurer shall not be liable for any loss or damage sustained by the state in carrying out the provisions of the four preceding sections, which does not result from any fault or negligence on his part.

631. (2024) (119) (106) (106) Custodian of state bonds redeemed, and duties in reference to them.—The state treasurer is the custodian of all redeemed bonds and paid coupons of the state, which must be canceled; and he must register them in a book kept for that purpose, in such manner as to show a full and complete identification by date, number, amount, rate of interest, time, and place of payment, and by whom issued, and such registry must be carefully preserved; and all bonds of the state, redeemed or paid, must be canceled and filed in the office of the state treasurer.

632. (2025) Must record paid and canceled coupons.—The state treasurer must enter, in suitable books kept for that purpose, a record of all paid and canceled coupons of the coupon bonds of the several classes of coupon bonds issued by the state, and all the coupon bonds which the state may hereafter issue, such record to be made as soon as practicable after such payment and cancellation. (r.c.o.)

633. (2026) When duplicate of lost or destroyed registered state bonds may issue.—Whenever it shall be made to appear to the governor, state auditor and state treasurer, by clear and satisfactory evidence, that any duly registered bond of the State of Alabama bearing interest has been lost or destroyed so that the same is not held by any person as his property, they shall issue a duplicate of such registered bond, in like amount, bearing like interest and executed and marked in like manner as the bond so proved to have been lost or destroyed. But the owner of such lost or destroyed bond shall first execute a penal bond in double the amount of such lost or destroyed bond and the interest which would thereafter accrue thereon, with two

EXECUTIVE DEPARTMENT.

Attorney-General.

good and sufficient sureties, to be approved by the governor, payable to the State of Alabama, with condition to indemnify and save harmless the state from any claim because of such lost or destroyed bond. Such penal bond shall be filed and kept in the office of the state treasurer, and a copy thereof, duly certified by the treasurer, is admissible in evidence in any court.

(Feb. 21, 1893, p. 1044.)

ARTICLE 5.

ATTORNEY-GENERAL. 634-640.

SECTION.

634. His bond.
 635. His duties.
 636. May institute and prosecute civil actions for the state.
 637. May appoint assistant attorney-general.

SECTION.

638. Stenographer of attorney-general; salary of.
 639. His salary.
 640. Fees and commissions to be paid into state treasury.

634. (2027) (126) (108) (107) (71) **His bond.**—The attorney-general, before entering upon the duties of his office, must give bond in the sum of ten thousand dollars, and upon requisition of the governor, must give additional bond whenever the public interest demands. His bond must be approved by the governor, and recorded in the office of the secretary of state, and filed in the office of the state auditor.

(Aikin's Digest, pp. 46, 47; Feb. 20, 1866, p. 107, § 1; Dec. 7, 1866, p. 156.)

635. (2028) (127) (109) (108) (72) **His duties.**—He shall keep his office at the capitol, and perform the following duties, viz.:

(r.c.c.)

1. He must give his opinion in writing, or otherwise, on any question of law connected with the interests of the state, or with the duties of any of the departments, when required by the governor, secretary of state, state auditor, state treasurer, superintendent of education, commissioner of agriculture and industries, examiner of public accounts, president of the convict bureau, state health officer, railroad commissioners, state game and fish commissioner, or the state tax commission, in writing to do so; and he shall also give his opinion to the chairman of the judiciary committee of either house, when required, upon any matter under the consideration of the committee.

2. He must, on the application of the governor, prepare all contracts and writings in relation to any matter in which the state is interested.

3. He must attend, on the part of the state, to all criminal cases pending in the supreme court, and to all civil suits in

Attorney-General.

which the state is a party in the same court. He shall also attend to all causes other than criminal that may be pending in the courts of Montgomery county, in which the state may be in any manner concerned; and when required to do so by the governor, in writing, shall appear in the courts of other states, or of the United States, in any cause in which the state may be interested in the result.

4. He must superintend the collection of all notes for school lands which may be turned over to him by the superintendent of education; and for this purpose may appoint agents in different parts of the state.

5. He must, in the month of October of each even-numbered year, make to the governor a report of the business of his office for the two years next preceding, with such suggestions tending to the suppression of crime and the improvement of the criminal administration as he may deem proper. Such report shall also contain a statement of the number of criminal cases disposed of in the entire state for the past two years, as shown by reports of solicitors; and taking each character of cases separately, it shall show the number disposed of in each judicial circuit and in each city or criminal court or other court or territory having a separate solicitor, the number of convictions, the number of acquittals, the number of nolle prosequies entered, the number of cases which were abated or otherwise disposed of, the number of sentences to death, the number of sentences to the penitentiary, the number of other sentences, including fines imposed, and the totals under each head above mentioned. Such report may also contain such opinions of the attorney-general as may be deemed of public interest; and such report shall, when printed, be transmitted by the governor to the legislature.

6. He shall keep and preserve, with proper indices thereto, press copies of all his official opinions and correspondence.

7. He shall keep, in a well-bound book with proper index thereto, a docket of all civil suits and claims in which the state is in any manner concerned and to which he is required to give attention, showing the names and address of the parties, the nature and amount of the suit or claim, when and in what court suit was brought, the steps taken therein, and the final determination and result thereof; and, as to claims for collection, showing also, when and from whom the claims were received by him, the name and address of any agent or attorney to whom sent for collection and the date thereof, and, in all cases, the amount and date of each collection, the amount of commissions or other expenses deducted, if any, the net amount col-

Attorney-General.

lected, when and to whom paid over, and the receipt of the proper officer therefor.

(Aikin's Digest, p. 46, §§ 2, 3; p. 47, § 5; Clay's Digest, p. 67, § 2; p. 530, § 4; Feb. 21, 1893, p. 852; Feb. 20, 1866, p. 107, § 2.) The supreme court can recognize no other representative of the state than the attorney-general. The law commits matters to his judgment and discretion, and when he proceeds, he must do so in the name of the state.—Ex parte State, 113 Ala. 85 (21 So. 210); see Ex parte State, 71 Ala. 363; 71 Ala. 371.

636. (2029) May institute and prosecute civil actions for the state.—The attorney-general is authorized to institute and prosecute, in the name of the state, all suits and other proceedings at law or in equity, necessary to protect the rights and interests of the state.

Amended,
Feb. 13,
1903, p.
61; Feb.
19, 1907, p.
46; Feb.
23, 1907, p.
63, § 3.

637. (2030) May appoint assistant attorney-general.—The attorney-general may appoint one assistant attorney-general in his office and remove him at pleasure. The salary of the assistant attorney-general is fifteen hundred dollars per annum, payable as the salaries of other officers are paid.

Oct. 6,
1906, p.
395, § 1;
Feb. 22,
1907, p.
63, § 3.

638. Stenographer of attorney-general; salary of.—The attorney-general may employ a stenographer at a salary of seven hundred and fifty dollars per annum, which shall be paid at the same time and in the same manner as the salaries of the other clerks in the executive department.

As amend-
ed, Feb.
23, 1907, p.
63, § 1.

639. (2031) (128) (110) (109) (73) His salary.—The salary of the attorney-general is three thousand dollars per annum.

(Dec. 8, 1890, p. 51, § 1; Feb. 23, 1876, p. 200; Feb. 20, 1866, p. 108; Feb. 23, 1866, p. 75.)

640. (2032) Fees and commissions to be paid into state treasury.—All fees and commissions to which the attorney-general is entitled by law, shall, when collected, be paid into the state treasury.

(Aikin's Digest, p. 368, § 1; Clay's Digest, p. 516, § 1; Dec. 8, 1890, p. 51, § 2.)

ARTICLE 6.

DEPOSITARIES FOR STATE FUNDS. 641-655.

SECTION.

- 641. Banks or trust companies designed as depositaries.
- 642. Applications, verified statements, and securities of banks filed before designated as depositaries.
- 643. Deposit of bonds by bank as security; designation and promulgation of order.
- 644. Deposits of state funds in depositaries by officers; checking out by state treasurer.
- 645. Amount on hand at any time in excess of that allowed, surplus remitted at once to state treasurer; penalty for failure.
- 646. Receipts for deposit; copy forwarded to auditor.

SECTION.

- 647. Depositaries report daily to treasurer; statements rendered monthly.
- 648. Failure to pay checks drawn by state treasurer; penalty; sale of bonds deposited as security.
- 649. Sale passes title to purchaser; bonds registered in his name.
- 650. Bank ceasing to be depositary may withdraw securities.
- 651. Notice of cessation.
- 652. Costs and risks of depositaries; transmitting funds, etc.
- 653. Rules and regulations for conduct of depositaries.
- 654. Placing of state funds in depositaries not mandatory.
- 655. State treasurer may deposit bonds in depositaries.

641. Banks or trust companies designated as depositaries.— Mar. 4, 1907, p. 219, § 1.
The governor may designate any bank or trust company incorporated under the laws of this state, or of the United States, and actually doing business in this state, as a state depositary, as hereinafter provided.

642. Applications, verified statements, and securities of banks filed before designated as depositaries.— Ib., §§ 2 and 9. Before any bank or trust company shall be designated as a state depositary it shall file with the state auditor and state treasurer an application in writing to be designated as a state depositary under the terms of this article, and shall accompany such application with a statement, verified by the affidavit of its president or other executive head, setting forth the amount of its paid-in capital stock, surplus and undivided profits, its principal place of business, the length of time it has been engaged in business, and a statement of its assets and liabilities at the time of making the said application, and shall also accompany its application with a deposit of bonds of the State of Alabama in an amount not less than ten thousand dollars par value. Such bonds shall be registered bonds and in the name of the bank or trust company so depositing the same, which bonds are to be held and kept by the state treasurer, and it shall be so stated in said application as a security to the state for the faithful performance of the duties of such bank or trust company as a state depositary, and that it will well and truly account for and pay over any moneys or funds of the state upon the check or order of the state treasurer.

Mar. 4,
1907, p.
219, § 3.

643. Deposit of bonds by bank as security; designation and promulgation of order.—Upon the filing of such application with the state auditor and state treasurer and the deposit of bonds with the state treasurer, as above provided, the said auditor and treasurer shall certify to the governor the fact of such application, and the sworn statement accompanying the same, and thereupon the governor may designate said applicant as a state depositary, and in the event said application be granted by the governor, he shall promulgate an order declaring that the said applicant is a state depositary for the term of three years, unless its authority be sooner revoked, and as such that it may receive or have at any time state funds in an amount equal to the par value of the state bonds deposited by it with the state treasurer, and in no case to exceed its paid-in capital stock, surplus and undivided profits mentioned in the affidavit accompanying the said application.

Ib., § 4.

644. Deposits of state funds in depositaries by officers; checking out by state treasurer.—Any state or county officer in this state, having in his possession or under his control, funds or moneys belonging to the state, may place the same in a state depositary to the credit of the state treasurer and subject to the check or order of the state treasurer, but no state depositary shall receive or have at any time an amount of said moneys or funds in excess of the face value of said bonds actually deposited by it with the state treasurer, nor in excess of the amount of its paid-in capital stock, surplus and undivided profits.

Ib.

645. Amount on hand at any time in excess of that allowed, surplus remitted at once to state treasurer; penalty for failure.—If any bank or trust company designated as a state depositary shall receive, or have on hand at the close of any day's business, state funds or moneys in excess of the amount it is herein authorized to receive, or have at any time, such depositary shall at once remit such surplus direct to the state treasurer, and on failing to do so, the governor, upon the fact being certified to him by the state treasurer, or otherwise coming to his knowledge, shall forthwith direct the withdrawal by the state treasurer from such bank or trust company of said funds or moneys, and the same being withdrawn, he shall forthwith revoke the authority of such bank or trust company to be or continue a state depositary.

Ib., § 6.

646. Receipts for deposits, copy forwarded to auditor.—Each state depositary shall give to the officer placing funds or moneys therein to the credit of the state treasurer a receipt therefor in duplicate, and such officers shall immediately mail to the state auditor a duplicate of the said receipt, and the state

Depositaries for State Funds.

auditor shall, upon receiving the same, pass the amount therein mentioned to the credit of said officer and transmit the duplicate receipt to the state treasurer, who shall mail to the said officer a receipt for the same.

647. Depositaries report daily to treasurer; statements rendered monthly.—Each state depositary shall report in writing at the close of each business day to the state treasurer the total amount of all sums placed therein for his account on that day, by whom made and for what purpose made, and at the end of each calendar month, a statement of the balance to the credit of the state treasurer in such depositary shall be made by it to the governor, state auditor, and state treasurer. Mar. 4,
1907, p.
219, § 7.

648. Failure to pay checks drawn by state treasurer; penalty; sale of bonds deposited as security.—The funds or moneys so placed in every state depositary shall be held by it subject to the check or order of the state treasurer, and if any state depositary having funds or moneys to the credit of the state treasurer, shall fail to pay any check drawn or order made by the state treasurer on such state depositary, or shall fail to faithfully account for all the state funds or moneys that may have come into its possession, the state treasurer shall forthwith sell the bonds deposited by it under the terms of this article or a sufficient amount thereof, to pay off and discharge any sum or sums in such state depositary to the credit of the state treasurer, and which are unpaid, together with the cost and expense of advertising a sale of the bonds. The state treasurer shall advertise the proposed sale of such bonds for ten days in a daily newspaper published in Montgomery, Mobile, and Birmingham, and the sale shall be made in front of the capitol and at public outcry for cash. Ib., § 8.

649. Sale passes title to purchaser, bonds registered in his name.—Any sale of said bonds or part thereof authorized by this article to be made by the state treasurer shall, when the sale is made and the purchase price paid, have the effect of transferring to and vesting in the purchaser at such sale, title to the said bonds so purchased, and the purchaser shall thereby be authorized to have the bonds so purchased by him registered in his own name. Ib., § 9.

650. Bank ceasing to be depositary, may withdraw securities.—When any bank or trust company acting as a state depositary ceases, or desires to cease, acting as such, it shall, after making a full account of its transactions as state depositary and discharging all the obligations and liabilities imposed by this article, and paying into the state treasury any and all sums it may be liable for to the state treasurer or to the state, be entitled to withdraw the securities deposited by it, Ib., § 10.

and thereupon its right to act as a state depository shall cease and determine.

Mar. 4,
1907, p.
219, § 10.

651. Notice of cessation.—But before any voluntary surrender of its designation such bank or trust company shall give at least thirty days' notice to the governor, state auditor, and state treasurer of its purpose to cease acting as a state depository.

Ib., § 11.

652. Costs and risks of depositories, transmitting funds, etc.—The designation of state depositories and the transfer or removal of funds to or from any state depository, shall be without any cost or expense to the state. And when any funds or moneys are transmitted or transferred by any state depository upon the order of the state treasurer, the same shall be, and continue at the risk of such depository until it shall have reached the destination contemplated by the order.

Ib., § 12.

653. Rules and regulations for conduct of depositories.—The governor, state auditor, and state treasurer are authorized to establish such regulations and collection methods not inconsistent with the provisions of this article as they may deem necessary for the convenient transaction of business with state depositories.

Ib., § 13.

654. Placing of state funds in depositories not mandatory.—Nothing in this article shall be construed as requiring county or state officers to place state funds in state depositories, and they may pay such funds into the state treasury as now provided by law.

Ib.

655. State treasurer may deposit bonds in depositories.—The state treasurer by and with the approval of the governor, may place all such funds or any part thereof, so paid to him, or any other funds that he may have at any time on hand, in any one or more of the state depositories under the same rules and regulations governing other deposits made under this article.

CROSS REFERENCES.

EXHIBITS (Civil Code)	3144
EXPERIMENT STATIONS (Political Code)	53- 69
EXPRESS COMPANIES (Political Code)	2145, 2086
EXTENSION OF MUNICIPALITIES (Political Code)	1075-1125
EXTORTION (Criminal Code)	6877, 7455, 7474, 7688, 7823-7825
EXTRAORDINARY REMEDIES (Civil Code)	4864-4872
FACTORIES, INSPECTION OF (Criminal Code)	7212-7222
FACTORIES (Civil Code)	2062 et seq.
FAIRS, FARMERS (Political Code)	70- 72
FALSE IMPRISONMENT (Civil Code)	4238, 4239
FALSE PERSONATION (Criminal Code)	6922, 6936
FALSE PRETENSES (Criminal Code)	6920, 6938, 7327

FALSE REPRESENTATIONS (Criminal Code)	6923-6925
FARMING TOOLS (Political Code)	2062 et seq.
FARM PRODUCE (Political Code)	2062 et seq.
FARM PRODUCTS; SALE AND DISPOSITION OF (Criminal Code).....	6878, 6879
FEEES (Criminal Code)	7044, 6631-6670
FEEES AND COSTS (Civil Code)	3662-3729
FEE SIMPLE ESTATE (Civil Code).....	3396, 3423 et seq.
FEE TAIL ESTATES (Civil Code)	3397
FELONIES (Criminal Code)	6756, 7129
FELONS, FUGITIVES (Criminal Code)	6939-6953
FELONY (Political Code)	293, 1467
" (Civil Code)	3255
FELONY, COMPOUNDING (Criminal Code)	6469
FEMALES (Political Code)	1, 1450
" (Civil Code)	3070, 5163
" (Criminal Code)	6217, 6737
FENCE LAW DISTRICTS (Civil Code)	5881-5898
FENCES AND LIVESTOCK (Civil Code)	4240-4259
FENCES (Criminal Code)	6413, 6414
FERRIES (Civil Code)	3023-3040
" (Criminal Code)	7822-7825
FERTILIZERS (Political Code)	24- 48
" (Criminal Code)	6880-6887
FIELD-NOTES (Political Code)	573
" (Civil Code)	3984
FIERI FACIAS (Civil Code)	4077-4159
FIGHTING (Criminal Code)	6222, 6893, 6306-6308, 6771, 7085
FIGHTING COCKS (Criminal Code)	6467, 6468
FILES OF COURT (Civil Code)	5734 et seq.
FINAL RECORD (Civil Code)	3074 et seq., 5733 et seq., 3272 et seq.
FINES (Criminal Code)	6627, 7633
FINES AND FORFEITURES (Criminal Code)	6888-6892
FIREARMS (Criminal Code)	6893-6897
FIRE COMPANIES (Political Code)	1265
FIRE HUNTING (Civil Code)	4485
FIRE INSURANCE COMPANY (Civil Code)	4543-4596
FIRE LIMITS, MUNICIPAL (Political Code)	1264
FISCAL AGENCY (Political Code)	626
FISCAL YEAR (Political Code)	614
FISH AND FISHING (Criminal Code)	6898-6905
FISH AND GAME DEPARTMENT (Political Code)	658- 688
FLAG (Civil Code)	2058, 2059
FLORIDA (Political Code)	85
FLOTSAM AND JETSAM (Civil Code)	5844-5857
FLOWERS (Horticulture) (Political Code)	811- 826
FLYING JENNIES (Political Code)	2361
FOAL (Criminal Code)	6240
FOOD; LAWS REGULATING (Criminal Code)	7049-7083
FORCIBLE ENTRY AND UNLAWFUL DETAINER (Civil Code).....	4260-4286
FORDS (Civil Code)	3037
FOREIGN CORPORATIONS (Political Code)	2391-2400
" (Civil Code)	3638-3661
FOREIGN CORPORATIONS, LICENSE (Political Code)	2401-2412
FOREIGN ADMINISTRATION (Civil Code)	2556-2565, 2825-2829
FOREIGN MUNICIPAL CORPORATIONS (Political Code)	1443-1449

FOREIGNERS (Civil Code) 2831
FORESTS-WOODS; BURNING (Criminal Code)6906-6908
FORFEITURES AND FINES (Criminal Code)6888-6892
FORFEITURES OF FRANCHISE (Political Code)2364-2390
 " (Civil Code)3510-3517
FORGERY AND COUNTERFEITING (Criminal Code)6909-6919
FORMS (Criminal Code)..7161, 6703, 6704, 6707, 6710-6714, 6720-6722,
 6730, 6737, 7588, 7606, 7610, 7284, 7285, 7156, 7157, 6285, 6286, 6341-
 6342, 6355, 6356, 7528, 7533, 7015, 7762
FORMS OF PLEADINGS (Civil Code)5382-5383
FORNICATION (Criminal Code) 6221
FORTHCOMING BONDS (Civil Code)4135-4138
FORTUNE-TELLERS (Political Code) 2361
FRAUDS AND PERJURIES (Civil Code)4287-4299
FRAUDS (Criminal Code)..6845, 6920-6986, 6938, 6675-6685, 6239, 6240,
 6242, 7859, 7860, 7703-7707, 6346, 6348
FRAUDULENT CONVEYANCES (Criminal Code)6935, 7423, 7343
FRAUDULENT DISPOSITION OF PROPERTY (Criminal Code)..... 6935
 " (Criminal Code)7687-7690
FREIGHTS (Civil Code)5494 et seq.
 " (Criminal Code)7687-7690
FRUIT-TREES (Civil Code) 6037
FUGITIVES FROM JUSTICE (Criminal Code)6939-6953, 6645
FUNDS OF PUBLIC SCHOOLS (Political Code)1678-1688, 1760-1780
FUNERAL EXPENSES (Civil Code) 2597
FUTURES, DEALING IN (Civil Code)3349-3353
GAMBLERS (Criminal Code) 7843
GAMBLING AND WAGERING CONTRACTS (Civil Code)3338-3353

CHAPTER 20.

GAME AND FISH; DEPARTMENT OF ESTABLISHED. 656-688.

SECTION.

- 656. Department of game and fish established and commissioner provided for.
- 657. Salary and expenses of state commissioner.
- 658. Office of state commissioner.
- 659. Bond and oath of state commissioner.
- 660. Seal of Office.
- 661. Itemized statement of receipts and disbursements filed by commissioner monthly.
- 662. Accounts; approval and payment of.
- 663. Accounts audited.
- 664. Biennial report of commissioner to governor.
- 665. Commissioner; duty to enforce game and fish laws.
- 666. Blanks and other printed matter provided.
- 667. Publication of game laws.

SECTION.

- 668. Commissioner and his deputies may serve process.
- 669. Commissioner may appoint county game and fish wardens.
- 670. Duties and powers of county wardens.
- 671. County wardens and deputies subject to supervision and removal by state commissioner.
- 672. Bond of county wardens; conditions of.
- 673. Ex-officio deputy game wardens.
- 674. Compensation of wardens under special instructions.
- 675. Forest fires provided against.
- 676. Compensation of county wardens.
- 677. Certificate to collect birds, nests, eggs, etc.
- 678. Permits to capture game; when issued.

SECTION.

- 679. License; contents of.
- 680. County license; how obtained.
- 681. State license; how obtained.
- 682. Non-resident or alien hunters' license; how procured.
- 683. Probate judges issue hunting licenses.
- 684. Money received from licenses; how disposed of.

SECTION.

- 685. Owners, landlords, and tenants may hunt on their own lands without license.
- 686. Licenses printed on distinctive colors.
- 687. Licenses delivered to and returned by probate judges.
- 688. Game and fish protection fund created and disposed of.

656. Department of game and fish established and commissioner provided for.—The department of game and fish of the State of Alabama is established and shall be known and termed as such. The present state game and fish commissioner shall hold office until his successor is elected and qualified. His successor shall be elected by the qualified electors of the state at the general election in 1908, and every four years thereafter, and his term of office shall begin on first Monday after second Tuesday in January next after his election. Feb. 19, 1907, p. 12, § 17. (r.c.c.)

657. Salary and expenses of state commissioner.—The state game and fish commissioner shall receive a salary of twenty-five hundred dollars per annum, payable monthly out of the game and fish protection fund in the same manner as other state officers are paid, but the said state game and fish commissioner shall not be allowed any reimbursement for his expenses in travelling over the state in the discharge of the duties of his office. Ib. (r.c.c.)

658. Office of state commissioner.—The state game and fish commissioner shall be provided with a suitable office in the state capitol and, upon the approval of the governor, may employ a clerk when necessary. Feb. 19, 1907, p. 12, § 18.

659. Bond and oath of state commissioner.—Before entering upon the discharge of his official duties the state game and fish commissioner shall give bond in the sum of five thousand dollars to the State of Alabama, with two or more sureties, to be approved by the secretary of state, conditioned that he will well and truly account for and apply all moneys which may come into his hands in his official capacity, and that he will faithfully perform the duties enjoined upon him by law, and he shall also take and subscribe the oath or affirmation required by the constitution of the state, and be commissioned by the secretary of state. Ib., § 19.

660. Seal of office.—The state game and fish commissioner shall keep a seal of office, which shall be used to authenticate all papers and documents issued and executed by him as such officer. Ib., § 20.

661. Itemized statement of receipts and disbursements filed by commissioner monthly.—At the end of each calendar Ib., § 18.

month said game and fish commissioner shall file with the governor an itemized statement under oath of all sums of money received or expended by him in the discharge of his official duty, including clerical services, salaries, and expenses of deputies while traveling under special order as hereinafter provided, postage, stationery, and other necessary incidental expenses; such clerk shall receive two dollars per day while engaged in such service.

Feb. 19,
1907, p.
12, § 18.

662. Accounts; approval and payment of.—Upon the approval of such accounts by the governor, the auditor shall draw his warrant for such amount, which shall be paid monthly out of the game and fish protection fund.

Ib.

663. Accounts audited.—The office and accounts of the state game and fish commissioner shall be audited by direction of the governor in the same manner as the office and account of other state offices are audited.

Ib., § 20.
(r.o.c.)

664. Biennial report of commissioner to governor.—In the month of October in the year 1908, and every two years thereafter, the state game and fish commissioner shall make a report to the governor showing the official business transacted by him. Such report shall show the number of hunters' licenses issued, together with all fees collected. It shall show what moneys have been received by the game and fish department from fees and other sources. It shall show the number of wardens employed under special instructions, and shall give all necessary information concerning the affairs of the department of game and fish. Such report to be published in pamphlet form.

Feb. 19,
1907, p.
12, § 21.

665. Commissioner; duty to enforce game and fish laws.—The state game and fish commissioner shall enforce all laws now enacted or that may be enacted for the protection, propagation, and preservation of game animals, birds, and fish in this state, and shall prosecute all persons who violate such law; and he shall at any and all times seize any and all birds, animals, and fish which have been caught or killed at a time, in a manner, or for a purpose, or in possession, or which have been shipped, contrary to the game laws of this state.

Ib., § 22.

666. Blanks and other printed matter provided.—The blanks and other printed matter necessary to carry out the provisions of the game laws, upon the approval of the governor, shall be printed under the direction of the state game and fish commissioner, and shall be paid for in like manner and upon the same terms as other public printing. This expense shall be chargeable to the first money covered into the game and fish protection fund.

667. Publication of game laws.—The state game and fish commissioner, by and with the consent of the governor, shall publish in pamphlet form for general distribution the laws relating to game, birds, and fish. Feb. 19, 1907, p. 12, § 26.

668. Commissioner and his deputies may serve process.—The state game and fish commissioner and his deputies may serve criminal process as sheriffs and constables. Ib., § 23.

669. Commissioner may appoint county game and fish wardens.—The state game and fish commissioner shall appoint, by and with the consent and approval of the governor, game and fish wardens in each county in this state, and such persons so appointed shall be known as county game and fish wardens, and shall hold office for the term of the state game and fish commissioner appointing them, and till their successors are duly appointed. Ib., § 24.

670. Duties and powers of county wardens.—The county wardens shall assist the state game and fish commissioner in the discharge of his official duties, and said warden shall have like power and authority as is provided in this chapter for the state game and fish commissioner relative to the enforcement of this law. Ib.

671. County wardens and deputies subject to supervision and removal by state commissioner.—Said deputies and wardens shall be subject to the supervision and direction of the state game and fish commissioner, and subject to removal for cause by him. Ib.

672. Bond of county wardens; conditions of.—Before entering upon the discharge of their official duties each county game and fish warden shall give bond in the sum of five hundred dollars, payable to the State of Alabama, with two or more sureties, to be approved by the secretary of state, conditioned that he will well and truly account for and legally apply all money which may come into his hands in his official capacity, and that he will faithfully perform all the duties enjoined upon him by law. Ib., § 24.

673. Ex officio deputy game wardens.—All sheriffs, deputy sheriffs, marshals, constables, and policemen, or other peace officers of this state, are ex officio deputy game and fish wardens. Ib., § 23.

674. Compensation of wardens under special instructions.—Game and fish wardens acting under special instructions shall receive three dollars per day for their services. Ib., § 40.

675. Forest fires provided against.—The game and fish wardens shall, while in and about the woods, caution all sportsmen of the danger from fires and extinguish all fires left burning by any one if within their power, and shall give notice Ib., § 47.

to any and all persons interested, when possible, of fires raging beyond their control, to the end that the same may be extinguished.

Feb. 19,
1907, p.
12, § 25.

676. Compensation of county wardens.—Each county game and fish warden shall receive one-half of all fines, forfeitures, and penalties collected in the county in which he holds office for violations of the game and fish laws. And such moneys shall be so paid by the courts collecting the same, and the remainder shall be forwarded to the state treasurer and covered into the game and fish protection fund.

Ib., § 4.

677. Certificate to collect birds, nests, eggs, etc.—Certificates may be granted by the state game and fish commissioner, upon the payment of one dollar to defray the necessary expenses attending the granting of such certificates, to any properly accredited person, permitting the holder thereof to collect birds, their nests or eggs, for strictly scientific purposes only. In order to obtain such certificates the applicant for the same must present to the state game and fish commissioner written testimonials from two well known ornithologists, one of whom shall be a resident of this state, certifying to the good character and fitness of said applicant to be entrusted with such privilege. Such certificate shall expire on the 31st day of December of the year in which it is issued.

Ib., § 27.

678. Permits to capture game; when issued.—The state game and fish commissioner, upon the payment of one dollar, may issue permits to any person to take, capture, or transport not more than ten pairs of any one species of game, birds, or fish within or without this state, when satisfied that such person applying for said permit desires the same exclusively for scientific or propagating purposes.

Ib., § 30.

679. License; contents of.—All license shall be dated when issued, and shall authorize the person named therein to hunt during that calendar year, and then only within the regulations and restrictions provided by law. All hunting licenses shall be numbered consecutively at the time they are printed, and resident and nonresident blanks shall be furnished by the state game and fish commissioner to the probate judges of the various counties in this state.

Ib., § 31.

680. County license; how obtained.—Any person who has been a bona fide resident of this state for one year then past may procure a county hunter's license for himself or herself by filing his or her affidavit with the probate judge in the county in which he or she resides, stating his or her age, place of residence, postoffice address, color, color of his or her hair and eyes, and the fact whether he or she can write his or her name, and by paying the said judge of probate the sum of one dollar.

681. State license; how obtained.—Any person who has been a bona fide resident of the state one year then past may procure a state hunter's license for himself or herself by filing with the probate judge of the county to whom he applies for license the affidavit provided by the preceding section, and by paying to the said probate judge the sum of three dollars, which shall entitle him or her to a state hunter's license and shall authorize him or her to hunt in any county in this state. Feb. 19,
1907, p.
12, § 32.

682. Nonresident or alien hunter's license; how procured.—Any nonresident or alien of this state may procure a license for hunting by filing his or her affidavit with the probate judge of any county in this state, stating his or her age, place of residence, postoffice address, color, color of his or her eyes and hair, and the fact whether he or she can or cannot write his or her name, and by paying the said probate judge the sum of fifteen dollars. Ib., § 32.

683. Probate judges issue hunting licenses.—The probate judge shall issue all hunting licenses, resident and nonresident, under the seal of his office to all persons complying with the provisions of this chapter, and shall sign the same and shall require the person to whom the license is issued to sign his or her name on the margin thereof. He shall keep a correct and complete record of all licenses issued in a book to be furnished by the state game and fish commissioner, which record shall remain in his office and be open to the inspection of the public at all reasonable times. Ib., § 34.

684. Money received from licenses; how disposed of.—Probate judges shall retain of the money received of each license issued the sum of fifteen cents, which shall cover the swearing of the applicant to the affidavit referred to in this chapter and all other services under this chapter, and shall pay the balance to the state treasurer on the first day of each month, which amount shall be covered into the game and fish protection fund, and said probate judges shall report to the state game and fish commissioner on the first day of each month the number of licenses issued, and the amount of money remitted to the state treasurer. Ib., § 34.

685. Owners, landlords, and tenants may hunt on their own lands without license.—All owners and landlords and members of their families may hunt upon their own lands without license; and tenants and members of their families may hunt upon their leaseholds without license. Ib., § 31.
(r.o.c.)

686. Licenses printed on distinctive colors.—The license for residents and nonresidents shall be printed on distinctive colors. Ib., § 32.

687. Licenses delivered to and returned by probate judges.—The state game and fish commissioner shall deliver to each judge of probate in this state ten days before the first day of Ib.

January in each year as many licenses as may be required, and shall charge said judge of probate with the number issued to him. On the 15th day of December in each year, and within ten days thereafter, each probate judge shall return to the state game and fish commissioner all unused licenses and stubs of the licenses issued.

688. Game and fish protection fund created and disposed of.—All moneys sent to the state treasurer in payment of hunting licenses, fines, penalties, and forfeitures arising from the game laws of this state shall be set aside by the state treasurer and shall constitute a fund known as the "game and fish protection fund," for the payment of the salary of the state game and fish commissioner and his necessary incidental expenses, also the payment of the expenses of the game and fish warden when acting under special instructions. The expenses incurred for any purpose or in consequence of this chapter shall be limited to the amount of money in the game and fish protection fund, and in no event shall the state pay any such salaries or expenses or be liable in any manner therefor except to the extent of such game and fish protection fund, and the state game and fish commissioner shall not issue any voucher nor shall the state auditor approve any voucher if issued by the said state game and fish commissioner for any services or expenses of any kind, unless the money to pay such voucher shall at the time be on hand in the state treasury to the credit of the state game and fish protection fund.

Feb. 19,
1907, p.
12, § 89.

CROSS REFERENCES.

GAME LAWS (Criminal Code)	6954-6982
GAMING AND LOTTERIES (Criminal Code)	6983-7005
GARNISHMENTS (Civil Code)	4300-4336
GAS-WORKS (Political Code)	2361, 2084
GATES (Civil Code)	5818, 3036
GENERAL ASSEMBLY (Political Code)	900- 928
GENERAL ASSIGNMENT (Civil Code)	6054-6109, 4295
GENERAL ISSUE (Civil Code)	3842, 5331

CHAPTER 21.

GEOLOGICAL SURVEY. 689-697.

SECTION.

- 689. State geologist.
- 690. His duties.
- 691. Assistants.
- 692. Annual appropriation.
- 693. Salary.

SECTION.

- 694. Expenses of survey.
- 695. Bulletins of state geologist.
- 696. Printing and binding geological bulletins.
- 697. Payment for printing and binding bulletins.

689. (2241) State geologist.—Eugene A. Smith, professor of mineralogy and geology in the University of Alabama, is

state geologist. In the event of a vacancy in the office of state geologist, from any cause, the professor of geology in the University of Alabama shall be ex-officio state geologist.

(Apr. 18, 1873, p. 89; Feb. 19, 1883, p. 57; Feb. 6, 1891, p. 427; Jan 4. 1868, p. 453.)

690. (2242) His duties.—It shall be the duty of the state geologist to devote such portions of his time as may not be required for the discharge of his duties as a professor in the University of Alabama to making explorations and examination of the minerals, agricultural, and other natural resources of the state, so as to determine accurately the quality and character of its soils and their adaptation to agricultural purposes, and especially to the occurrence and quality of phosphates, marls, gypsum, and other natural fertilizers; its mineral resources and their location, character, and capacity for development; its water powers and their capacities; its forest trees and their utilities and distribution; and it shall be the duty of him and his assistants, whenever they discover any valuable deposits of iron or other ore, coal, phosphates, marls, or other substance of value, to notify immediately the owners of the land upon which such deposits occur. He shall make to the legislature quadrennially a report of the progress of his explorations and examination, together with such analyses of soils, ores, minerals, and mineral waters, with maps, charts, and drawings, as may be needed for its illustration; which report shall be printed and shall be the exclusive property of the state. He shall also make collections of specimens and illustrations of the geological and agricultural resources of the state, one of which shall be deposited in the cabinet of the University of Alabama, a second in the cabinet of the Alabama Polytechnic Institute, and a third in the office of the commissioner of agriculture and industries in the capitol at Montgomery.

Apr. 18,
1873, pp.
89, 90;
Feb. 19,
1883, p.
57.

(Feb. 19, 1883, p. 57; Feb. 3, 1854, p. 41; Feb. 6, 1891, p. 427.)

691. (2243) Assistants.—The state geologist shall have power to appoint, with the approval of the governor, such assistants, including a competent chemist, and for such periods and with such compensation, as he may deem necessary to the best interests of the survey.

(Feb. 19, 1883, p. 57.)

692. (2244) Annual appropriation.—There is appropriated, out of any funds in the treasury, for the geological and agricultural survey provided for in this chapter, annually, the sum of seven thousand and five hundred dollars. Upon the requisition of the state geologist, when approved by the governor, the auditor shall draw his warrant on the treasurer for the amount appropriated, in such sums as may be needed from time to time for the purpose of the survey herein provided for; and for all expenditures made under the provisions

Feb. 19,
1883, p.
58.

of this chapter, except for the payment of the salary of the state geologist, the approval of the governor must be obtained, and the vouchers of the state geologist for all such expenditures must be filed with the auditor and a statement of his receipts and expenditures shall accompany each quadrennial report of the state geologist.

(Feb. 6, 1891, p. 427, § 2.)

Feb. 6,
1891, p.
427.
(r. c. c.)

693. (2245) Salary.—The state geologist shall receive out of the state treasury a salary of one hundred dollars a month as state geologist during the time he shall be engaged in performing his duties as professor of mineralogy and geology in, and is paid a full professor's salary by, the University of Alabama; and when not so employed and paid by the said university, he shall receive a salary of two hundred dollars a month, out of the state treasury, payable as other state officers' salaries are paid.

(Feb. 6, 1891, p. 427, § 2.)

Feb. 19,
1883, p.
56.

694. (2246) Expenses of survey.—The balance of the annual appropriation herein provided for shall be devoted, so far as may be necessary to execute the purposes of this chapter, to the discharge of the expenses of the survey, including the compensation of all temporary and permanent assistants; traveling expenses of the geologist, geological corps, in and out of the state; purchase of apparatus and material for making chemical analyses; other necessary expenditures for outfit; expenses incurred in providing for the transportation, arrangement, and proper exhibition of the geological and other collections made under authority of this chapter, and the engraving of maps and sections to illustrate the quadrennial reports of progress.

(Feb. 6, 1891, p. 427, § 2.)

Dec. 10,
1900, p.
55, § 1.

695. Bulletins of state geologist.—Whenever the state geologist has in hand, ready for publication, material for a bulletin or any other report of his surveys and investigations of the mineral, agricultural, or other natural resources of the state, he shall report the same to the governor, and a committee consisting of the governor, secretary of state, and state geologist shall then determine the number of such bulletin or report which shall be printed and published.

Ib., § 2.

696. Printing and binding geological bulletins.—When the number of such bulletin or report to be printed and published has been so determined, the governor shall order the same to be printed and bound forthwith at such times and places, and in such manner and style as regards size, type, quality of paper, binding, etc., as said committee may deem best, and in similar manner he shall have engraved and printed all charts, maps, views, drawings, sketches, or details as may be deemed

necessary by said committee to properly illustrate such bulletin or report. And for the purposes herein mentioned when, in the opinion of said committee, the state printers are not prepared to do in proper manner any engraving or other work required for such report or bulletin, the governor may authorize special contracts with such persons, firms, or corporations, within or without the state, as in the judgment of said committee will secure the promptest and most satisfactory work.

697. Payment for printing and binding bulletins.—The accounts for the printing, engraving, and binding done under the provisions of this chapter, when approved by the governor, shall be paid by his order out of any moneys in the state treasury.

Dec. 10,
1900, p.
55, § 8.

CROSS REFERENCES.

GEORGIA (Political Code) 84
GIFTS (Civil Code) 3392
GIN, BARN, ETC. (Civil Code) 4822-4826
 " (Criminal Code) 6302
GINNERS' LIEN (Civil Code) 4822-4826
GIRLS (Criminal Code) 6211, 7619, 7699-7700
GIRLS' INDUSTRIAL SCHOOL (Political Code) 1912-1932
GLANDERS (Criminal Code) 6237
GOATS (Civil Code) 4810
GOVERNOR (Political Code) 550- 571
 " (Criminal Code)..... 6479, 6491, 6501, 6502, 6510, 6527, 6563,
 6569, 6542, 6939, 6645, 6940, 6950, 6951, 7125, 7396-7405, 7510-7515, 7779
GRAIN (Civil Code) 2439
GRANDCHILDREN (Civil Code) 3435
GRAND JURY (Criminal Code) 6994, 6999, 7282-7306, 7572, 7190
GRANT (Political Code) 888- 891
 " (Civil Code) 3421
GRAVES (Criminal Code) 6748-6753
GRAVEYARDS IN TOWNS AND CITIES (Political Code) 1309, 1310
GRAVEYARDS, LOCATION OF (Political Code) 86- 97
GUARANTEE, SURETY OR BOND COMPANIES (Political Code) .. 1507-1524
 " (Criminal Code) 7006
GUARD, ALABAMA NATIONAL (Political Code) 929- 998
GUARDIAN AND WARD (Civil Code) 4337-4481
GUARDIANS AD LITEM (Civil Code) 4482-4484, 2867
GUARDS (Criminal Code) 6642, 6644, 7047
GUIDE-BOARDS, OFFENSES CONCERNING (Criminal Code) 7395
GUNPOWDER (Criminal Code) 7583
HABEAS CORPUS (Criminal Code) 7007-7048
HABITUAL DRUNKARD (Civil Code) 4611-4618
 " (Criminal Code) 6770, 6793, 7843
HARBORS (Civil Code) 4901-4926
HARD LABOR FOR COUNTY (Criminal Code)..... 6580-6592, 6596,
 6602-6605, 7462, 7481, 7607
HARD LABOR FOR FINES AND COST (Criminal Code) 7634, 7635
HARD LABOR OF CONVICTS (Criminal Code) 6479-6607
HAWKERS AND PEDDLERS (Political Code) 2361

CHAPTER 22.

HEALTH AND QUARANTINE. 698-792.

- ARTICLE 1. HEALTH LAWS AND REGULATIONS. 698-733.
 ARTICLE 2. COUNTY AND MUNICIPAL HOSPITALS. 734, 735.
 ARTICLE 3. QUARANTINE LAWS AND REGULATIONS. 736-756.
 ARTICLE 4. LIVE STOCK SANITARY BOARD. 757-770.
 ARTICLE 5. SANATORIUM FOR CONSUMPTION AND TUBERCULOSIS. 771-792.

ARTICLE 1.

HEALTH LAWS AND REGULATIONS. 698-733.

SECTION.

698. State board of health; how constituted.
 699. Clerk of the state board of health.
 700. County boards of health; how constituted.
 701. No other local boards than county boards of health to be established.
 702. Authority, jurisdiction, and duties of the state board of health.
 703. Duties, authorities, and powers of county boards of health.
 704. State health officer; election, his duties, and powers.
 705. Report of state board of health.
 706. Duties of county health officers.
 707. Salary of county health officer; how paid.
 708. Bond of county health officer.
 709. Assistant county health officers may be appointed.
 710. Duties of municipal health officers.
 711. Reports of birth to health officers.
 712. Reports of deaths to health officers.
 713. Certificate of death.
 714. Report of physician as to contagious diseases.

SECTION.

715. Investigation of suspicious cases of diseases.
 716. The diseases named, the spread of which is to be controlled by law.
 717. Isolation and detention of cases of contagious diseases.
 718. Abatement of nuisances.
 719. Removal of infected persons not in their own homes.
 720. Health officer authorized to enter infected houses.
 721. Resistance of health officer.
 722. Landlords or lessors must notify tenants or lessees of infected houses.
 723. Inspection of places where food is sold.
 724. Interment when too long delayed.
 725. Transportation of dead bodies.
 726. Location and extension of cemeteries.
 727. Sanitary regulations; expenses.
 728. Recovery of expenses by health officer, sheriff, etc.
 729. Repeal as to local law.
 730. Records of marriages furnished board by probate judge.
 731. Divorce; records of furnished board by registers and clerks.
 732. Conflict between municipal and health laws provided for.
 733. Appropriation; how paid.

698. State board of health; how constituted.—The medical association of the State of Alabama; organized in accordance with the provisions of the constitution adopted at the annual meeting of the association, held in Tuscaloosa in March, 1873, and confirmed by an act of the legislature approved February 19, 1875, is the state board of health.

699. (2424) Clerk of the state board of health.—The state board of health is authorized to employ a clerk whose salary shall be twelve hundred dollars per annum, which shall be paid him by the auditor in monthly installments, on the order of the presiding officer of the state board of health.

(Feb. 12, 1893, p. 705.)

700. County boards of health; how constituted.—The county medical societies in affiliation with the medical association of the State of Alabama, and organized in accordance with the provisions of its constitution, are boards of health for their respective counties and for all incorporated towns and cities therein, and shall be under the general supervision and control of the state board of health.

Oct. 9,
1903, p.
499, § 2

701. (2433) (1286) (1543) No other local boards than county boards of health to be established.—No local board of health or executive medical body of any name or kind, for the exercise of public health functions, other than the county board of health, must be established in any county, town, or city.

(Feb. 19, 1875, p. 130, § 8.)

702. Authority, jurisdiction, and duties of the state board of health.—The state board of health shall have general control over the enforcement of the laws relating to the public health; shall investigate the causes, mode of propagation, and means of prevention of endemic, epidemic, infectious, and contagious diseases; shall investigate the influence of localities and employments on the health of the people; shall have the right to inspect all public schools, hospitals, asylums, jails, poorhouses, theaters, operahouses, courthouses, prisons, markets, public dairies, slaughter-pens or houses, depots, passenger cars, and other public places and institutions of like character; also the sources of supply, reservoirs, and avenues of conveyance of drinking water furnished to incorporated cities and towns; shall prescribe and publish rules for the sanitation of depots and passenger cars on all lines of railroads in this state, including the territory contiguous to said lines of railroad; shall exercise general supervision and control over the county boards of health in the execution of the public health laws of the state in their respective counties; and shall act as an advisory board to the state in all sanitary and medical matters.

Ib., § 3.

As amended,
Aug. 15, 1907,
p. 808, § 2.

703. Duties, authorities, and powers of county boards of health.—It shall be the duty of county boards of health—

Ib., § 4.

As amended,
Aug. 15, 1907,
p. 808, § 3

(a) To supervise the administration of the health laws of

HEALTH AND QUARANTINE

Health Laws and Regulations.

the state in their respective counties, and to enforce the law for the collection of vital and mortuary statistics.

(b) To investigate through their committees of public health and health officers cases or outbreaks of any of the diseases enumerated in section 716 of this Code, and to enforce such measures for the prevention or extermination of said diseases as they are authorized by law to enforce.

(c) To investigate through their committees of public health and health officers all nuisance to public health against which complaint has been alleged, and whenever complaint is ascertained to be well founded they shall, through said committees and health officers, take such steps for the abatement of the nuisance complained of as the law provides.

(d) To exercise through their committees of public health and health officers special supervision over the sanitary conditions of public schools, hospitals, halls, operahouses, theaters, asylums, courthouses, jails, industrial and manufacturing establishments, prisons, markets, public dairies, public slaughter pens or houses, and depots and passenger cars on all lines of railroads in their respective counties, including the territory contiguous to said lines of railroads.

(e) To elect a health officer for the county, removable at pleasure, and to fix his term of office, the jurisdiction of which officer shall extend to all parts of the county except such as are comprised within the municipal limits of incorporated cities or towns within the county.

(f) To elect a health officer, removable at pleasure, for every incorporated city and town in the county and to fix the term of office of such health officer, provided that the health officer of a county may be eligible for the position of health officer of any one or more incorporated cities or towns in his county. The authorities of said incorporated cities or towns shall fix fair salaries for their respective health officers.

(g) To elect physicians to attend the inmates of the county poorhouse and jail, and to fix the terms of office of such physicians, provided that both of said positions may be filled by the same physician, or by the county health officer. The court of county commissioners or boards of revenue shall fix fair salaries for such physicians as may be elected to fill said positions, or for the county health officer, should he be elected to fill them or any one of them.

(h) To require the county health officer to submit to the judge of probate and county commissioners or board of revenue, by or before the first day of March of each year, on blank forms to be supplied by the state board of health, a full and complete report of all public health and sanitary work, with such other information, suggestion, and recommendations in

regard to the protection of the health of the people as said board may deem proper, which report shall include the vital and mortuary statistics of the county.

(i) To require the health officer of every municipality in the county to submit to the mayor and council of such municipality by or before the first day of March of each year, a full and complete report of all public health and sanitary work, which report shall include the vital and mortuary statistics of the municipality, and may contain such other information, suggestions, and recommendations in regard to the protection of the health of the people as said board may deem proper.

(j) To require the county health officer to forward to the state board of health, by or before the tenth day of each calendar month, a report of all births and deaths, specifying the causes of the latter, that have occurred in the county, including all municipalities therein for the preceding month; also, by or before the first day of March of each year, an annual report containing a full account of all public health and sanitary work done in the county during the preceding year, which report shall include the vital and mortuary statistics of the county and of all municipalities therein, and may contain such other information, suggestions, and recommendations in regard to the protection of the health of the people, as said board may deem proper.

(k) To perform all such other duties as are or may be required by law.

704. State health officer; election; his duties and powers.—

The state board of health shall elect an executive officer, to be known as the state health officer, and shall fix his term of office and salary, provided that the latter shall not exceed five thousand dollars per annum. The state health officer so elected shall, under the direction of the state board of health, exercise general supervision over the county boards of health and county and municipal health officers, and shall promptly report to said county boards of health any delinquencies of official duty on the part of said county and municipal health officers which may come to his knowledge; shall keep himself informed in regard to all infectious, contagious, and pestilential diseases which may be in danger of invading the state, and shall, so far as authorized by law, take prompt measures to prevent such invasion; shall keep the governor informed as to the health conditions prevailing in the state, especially as to outbreaks of any of the diseases enumerated in section 716 of this Code, and shall submit to the governor such recommendations as he deems proper to control such outbreaks.

Ib., § 6.
As amended, Aug.
15, 1907,
p. 893, § 4.

705. Report of state board of health.—The state board of health shall submit to the governor an annual report of its

Ib., § 6.

HEALTH AND QUARANTINE.
Health Laws and Regulations.

transactions, in which report recommendations as to needed health legislation may be embodied, and the governor shall order such number of copies of said report printed for distribution as he may deem proper.

ib., § 7.
As amended,
Aug.
15, 1907,
p. 803, § 5.

706. Duties of county health officers.—It shall be the duty of the health officer of a county—

(a) To keep, under regulations prescribed by the state board of health, a book to be styled "The Register of Births," in which book he shall register, so far as reported to him, the sex and color of every child born in the county, the date of such birth, the name or names, age or ages, race, color, and occupation of the parent or parents, together with such other details as said regulations may require; also a book to be styled "The Register of Deaths," in which he shall register the names, so far as reported to him, of all persons who die in the county, specifying the date, place, and cause of death, also the sex, color, race, occupation, and, as far as can be ascertained, the age of the deceased person, together with such other details as may be required by said regulations; also a book to be styled "The Register of Infectious Diseases," in which book he shall register, so far as reported to him, the name, age, sex, color, race, occupation, and place of residence, together with such other details as may be required by said regulations, of all persons who may be attacked by any of the diseases enumerated in section 716 of this Code, all of which registers shall, when filled, be filed by the county health officer in the office of the judge of probate of the county, who shall receipt therefor.

(b) To exercise, under the direction and control of the committee of public health acting for the county board of health, and in accordance with the health laws of the state, general supervision over the sanitary interest of the county, and should he discover any cause of disease, or the existence of any condition detrimental to the health of the people, he shall, so far as authorized by law, compel the removal or abatement of the same, and should no authority for such removal or abatement exist, he shall report the facts to the county board of health, adding such recommendations as to special action as he may deem proper.

(c) To make personal and thorough investigation of the first case, or early cases, of any disease suspected of being any one of those enumerated in section 716 of this Code that may come to his knowledge, or be reported to him, and should he decide such case or cases to be one of those enumerated in said section and in imminent danger of spreading, he shall, in accordance with law, institute immediate measures to prevent

the spread of such disease, and shall forthwith report the facts thereof in writing to the judge of probate of the county, to the chairman of the committee of public health of the county board of health, and to the state health officer.

(d) To obtain as needed, at the expense of the county, a sufficient supply of vaccine virus with which to vaccinate, without charge, all indigent persons in the county who may apply at his office, or at the office of such physicians throughout the country as may be supplied with vaccine virus for the purpose of aiding him in the vaccination of such persons.

(e) To visit the county jail and county poorhouse once each month, and to make careful investigation as respects the drinking water, the food, the clothing, and bedding supplied to the prisoners and inmates, also as to the ventilation, air space, heating and bathing facilities, closets, drainage, etc., of these institutions, and when any of said supplies are found to be inadequate in quantity or bad in quality, or any of said conditions unsanitary, it shall be his duty to make in writing a circumstantial report thereof to the judge of probate and county commissioners or board of revenue, and to forward duplicates of said report to the county board of health and to the state health officer.

(f) To make to the state board of health, by or before the tenth day of each calendar month, a full report, so far as the facts reach him, of all births and deaths, specifying the causes of the latter, that occurred in the county, including all municipalities therein, for the preceding month.

(g) To make to the judge of probate and county commissioners or board of revenue, and to the county and state boards of health, by or before the first day of March of each year, an annual report of all public health and sanitary work done in the county during the preceding year, which report shall include the vital and mortuary statistics of the county and of all municipalities therein, and such other information, suggestions, and recommendations in regard to the protection of the health of the people as he may deem proper.

(h) To make to the state health officer prompt report of the presence in the county, so far as reported to him or as comes to his knowledge, of any of the diseases enumerated in section 716 of this Code, furnishing such information and at such intervals as the state health officer may require.

(i) To make to the county board of health such reports and at such times as said board may require.

(j) To authorize in writing any member of the county board of health to act for him in case of a contemplated absence from the county of such duration, or of a disability from any

cause of such character, as to interfere with the discharge of his official duties, provided that such member accepts in writing such delegation of authority, and that the chairman of the committee of public health for the county and the state health officer shall be duly notified of such arrangement by the county health officer.

(k) To discharge such other health functions as are or may be required of him by law.

fb., § 8.
As amend-
ed, Aug.
9, 1907, p.
575, § 1.

707. Salary of county health officer; how paid.—The salary of the health officer of a county shall be fixed by the court of county commissioners, or board of revenue; provided that in counties of ten thousand inhabitants, or less, the salary shall not be fixed at a lower rate than twenty dollars per thousand of population, and in counties of more than ten thousand inhabitants the decrease in the above rate shall not exceed ten cents per thousand of population up to a population of one hundred thousand, beyond which no further decrease shall be made. The salary for the health officer of a county shall be computed upon the basis of the last United States census, and shall be paid quarterly from the county treasury by the officer legally authorized to draw warrants on said treasury.

rb.

708. Bond of county health officer.—The health officer of a county shall enter into bond, with sufficient sureties, payable to the judge of probate of the county in a sum equal to the amount of his salary, with condition for the faithful performance of all such duties as are or may be required of him by law; provided that nothing in the preceding section shall be so construed as to prohibit the commissioners' courts or boards of revenue of the several counties of the state from paying the health officer of their respective counties a larger sum as salary than the minimum provided for in the preceding section, if in their judgment they deem it wise to do so.

fb., § 9.
As amend-
ed, Aug.
15, 1907,
808, § 6.

709. Assistant county health officers may be appointed.—The health officer may, subject to the approval of the county board of health, appoint such assistant county health officers and so distribute them throughout the county as may be of service in enforcing the health laws of the state or the health ordinances of the county. Said county health officer may, on like approval, remove any assistant county health officer so appointed.

Aug. 15,
1907, p.
808, § 7.

710. Duties of municipal health officers.—It shall be the duty of the health officer of a municipality—

(a) To keep, under regulations prescribed by the state board of health, a book to be styled "The Register of Births," in which he shall register, so far as reported to him, the sex,

HEALTH AND QUARANTINE.

Health Laws and Regulations.

439

race, and color of every child born in the municipality, the date of such birth, the name or names, age or ages, race, color, and occupation of the parent or parents, together with such other details as said regulations may require; also a book to be styled "The Register of Deaths," in which he shall register the names, so far as reported to him, of all persons who die in the municipality, specifying the date, place, and cause of death, also the sex, color, race, previous occupation, and, as far as can be ascertained, the age of the deceased person, together with such other details as may be required by said regulations; also a book to be styled "The Register of Infectious Diseases," in which he shall register, so far as reported to him, the name, age, sex, color, race, occupation, and place of residence, together with such other details as may be required by said regulations, of all persons who may be attacked by any of the diseases enumerated in section 716 of this Code; all of which registers shall, when filled, be filed by the health officer of the municipality in the office of the judge of probate of the county, who shall receipt therefor.

(b) To exercise, under the direction and control of the committee of public health acting for the county board of health, and in accordance with the health laws of the state and the health ordinances of the municipality, general supervision over the sanitary interests of the municipality, and should he discover any cause of disease or any condition detrimental to the health of the people, he shall, so far as authorized by law or ordinance, compel the removal or abatement of the same, and should no authority for such removal or abatement exist, he shall report the facts to the county board of health, adding such recommendations for special action as he may deem proper.

(c) To make personal and thorough investigation of the first case, or early cases, of any diseases suspected of being any one of the diseases enumerated in section 716 of this Code that may come to his knowledge or be reported to him, and should he decide such case or cases to be any one of the diseases enumerated in said section, and in imminent danger of spreading, he shall, in accordance with law or ordinance, institute immediate measures to prevent the spread of such disease, and shall forthwith report the facts in writing to the mayor and council of the municipality, to the committee of public health of the county board of health, and to the state health officer.

(d) To obtain, as needed, at the expense of the municipality, a sufficient supply of reliable vaccine virus with which to vaccinate, without charge, all indigent persons in the municipality who may apply at his office, or at the offices of

HEALTH AND QUARANTINE

Health Laws and Regulations.

such other physicians as may be supplied with vaccine virus for the purpose of aiding him in the vaccination of such persons.

(e) To visit the municipal prisons and any charitable institutions under the control of the municipality once each month and to make careful investigation as respects the drinking water, the food, the clothing, and bedding supplied to the prisoners and inmates; also as to ventilation, air space, heating and bathing facilities, closets, drainage, etc., of these institutions, and whenever any of said supplies are found to be inadequate in quantity or bad in quality, or any of said conditions unsanitary, it shall be his duty to make in writing a circumstantial report thereof to the mayor and council of the municipality, and to forward duplicates of said report to the county board of health and to the state health officer.

(f) To make to the county health officer by or before the tenth day of each calendar month a full report of all births and deaths, specifying the causes of the latter, so far as reported to him, that occurred in the municipality for the preceding month.

(g) To make to the mayor and council of the municipality, to the committee of public health of the county board of health, and to the state health officer, prompt reports of the presence in the municipality of any of the diseases enumerated in section 716 of this Code, furnishing such information, and at such intervals, as said authorities may require.

(h) To make to the county board of health such reports of his official acts and at such times as said board may prescribe.

(i) To authorize in writing any member of the county board of health to act for him in case of a contemplated absence from the municipality, of such duration or in case of a disability of such character, as would interfere with the discharge of his official duties; provided, that such member accepts in writing such delegation of authority, and that the municipal health officer shall notify the mayor, the chairman of the committee of public health for the county, and the state health officer of such arrangement.

(j) To discharge such other health functions as are or may be required of him by law.

711. Reports of births to health officers.—Within the first five days of each calendar month it shall be the duty of every physician and midwife to report all cases of child-birth attended during the last preceding month either to the county health officer or to a municipal health officer, according to whether the birth occurs in a county or in a municipality, and if no such case has been attended during such term, that fact

shall be reported. In each such case attended said report shall specify as nearly as can be ascertained the name, places of birth, color, occupation, and race of the parents, the sex, color, race, and date of birth of the child, together with such other details as may be required by the state board of health.

712. Reports of deaths to health officers.—Within the first five days of each calendar month it shall be the duty of every physician and midwife to report all deaths that occurred in their respective practices for the last preceding month either to the county health officer or to a municipal health officer, according to whether the death occurred in the county or in a municipality, giving in each case the date and place of the death, the name, sex, color, age, race, and previous occupation of the deceased, and, so far as can be ascertained, the cause of the death, together with such other details as may be required by the state board of health.

Oct. 9,
1903,
p. 490,
§ 11;
as amend-
ed, Aug.
15, 1907,
p. 898, § 9.

713. (2440) (1293) Certificate of death.—All certificates of death shall be made out by the attending physician in accordance with a form prescribed by the state board of health. In cases where there was no attending physician, and in which a certificate of death cannot be otherwise obtained, it shall be the duty of the county health officer or of a municipal officer, according to whether the death occurred in the county or in a municipality, to investigate the circumstances of the death, and, if free from suspicion, such county or municipal health officer shall furnish the required certificate; otherwise, the coroner shall be notified.

(Feb. 28, 1881, p. 76, § 5.)

714. Report of physician as to contagious diseases.—Every physician who is called to a case of any of the diseases named in section 716 of the Code shall, as soon thereafter as can be done, make a report thereof to the county, city, or town health officer in whose jurisdiction the case is located, specifying the name of the patient, the locality of the patient, the character of the disease, together with such other details as will furnish adequate information of the conditions and surroundings.

Ib., § 12; as
amended
Aug. 15,
1907, p.
898, § 10.

715. Investigation of suspicious cases of diseases.—Whenever a disease appears in a county, incorporated city, or town, suspected by any physician or midwife, or by any person on whose premises such sick person is, of being one of those enumerated in the next succeeding section, such physician or midwife, or such person, shall report his or her suspicion to the health officer having jurisdiction over the locality where such case appears, whereupon such health officer shall thoroughly investigate and decide upon the character of the disease. Should he entertain doubt as to the nature of the

Ib., § 13; as
amended
Aug. 15,
1907, p.
898, § 11.

HEALTH AND QUARANTINE.

Health Laws and Regulations.

disease he shall call to his aid such members of the committee of public health of the county board of health as may be available. Should doubt or difference of opinion as to the nature of the disease still exist, the state health officer shall be summoned, to which summons he shall respond as promptly as circumstances will permit.

Oct. 9,
1903,
p. 499,
§ 18; as
amended
Aug. 16,
1907, § 11.

716. The diseases named, the spread of which is to be controlled by law.—Should the disease prove to be leprosy, cholera, typhus fever, cerebro-spinal meningitis or spotted fever, yellow fever, scarlet fever, bubonic plague, hydrophobia, glanders, small pox, diphtheria, pulmonary tuberculosis, typhoid fever, chagris fever, beri-beri, or of other nature believed to be grave and at the same time contagious, infectious, or pestilential in character, or if the disease be known to be either one of those just enumerated and be so reported, the health officer of the county, city, or town shall promptly notify in writing the probate judge and commissioners or board of revenue of the county, the mayor or intendant and the council of the city or town, according to the location of the disease, of the presence and extent of prevalence of the disease, and said health officer shall accompany such notification with such recommendations as he may deem necessary to prevent the spread of the disease, calling into consultation with him, from time to time, the committee of public health of the county board of health. Upon receipt of such notification and recommendations said county, city, or town officials, as the case may be, shall, after consultation with the health officer in charge, and, if need be, with the committee of public health of the county board of health, appropriate such funds, or assume responsibility for such expenditures, as may be found necessary to prevent the spread of the disease. If authorized to incur the necessary expense, the health officer of the county, city, or town in which the disease is located shall proceed to direct and supervise the enforcement of the measures of extermination of the disease authorized by the county, city, or town authorities concerned, whether such measures shall apply to persons sick of or convalescent from the disease, or to those who have been exposed thereto. All employes needed to enforce the measures of control shall, subject to the approval of the committee of public health of the county board of health, be selected and employed by the health officer in charge, and shall be subject to removal by said officer or officers, likewise on approval of the committee of public health of the county board of health. Whenever any of the diseases enumerated in this section, or one suspected of being such, appears in a county, incorporated city,

or town under such conditions and surroundings as to render it imperative that prompt and immediate measures to prevent its spread be enforced, the health officer of such county, incorporated city, or town, as the case may be, shall have the right to institute and enforce such measures, subject to the approval of the committee of public health of the county board of health.

717. Isolation and detention of cases of contagious diseases.

—Whenever the health officer of a county, incorporated city, or town shall recommend to the judge of probate and county commissioners or board of revenue, or to the mayor or intendant and council of an incorporated city or town, the isolation and detention of such persons as are laboring under or have been exposed to any of the diseases named in section 716 of this Code, the said judge of probate and commissioners or board of revenue, or the said mayor or intendant and council of such incorporated city or town shall enforce, under such penalties as said authorities may respectively prescribe, the isolation and detention of said persons, either at their own homes or at such places as may be designated by said judge of probate and county commissioners or board of revenue, or by said mayor or intendant and council of an incorporated city or town, provided that said recommendations and rules for the isolation and detention of said persons shall receive the written endorsement of at least one member of the committee of public health of the county board of health.

Oct. 9,
1908,
p 499,
§ 14.

718. Abatement of nuisances.—Whenever complaint shall

Th., § 15.

be made in writing to a health officer of a county, city, or town that there is on any lot, piece of ground, or in any house or vessel, or in any pond, lake, or stream owned or maintained by a private individual or corporation, any source of infection, or unsanitary condition which is prejudicial to the public health, or likely to become so, or any material or thing is grossly offensive or indecent, such officer shall thoroughly investigate such complaint. If upon investigation said health officer shall be of the opinion that said complaint is well founded, he shall at once notify the person responsible therefor that he must remove or abate, at his own expense, said source of infection, unsanitary condition, or grossly offensive or indecent material or thing. Should such person responsible for said nuisance refuse or neglect to obey such order, said health officer shall refer the matter to the county board of health for investigation, and either party to the contest may request the state health officer to be present and participate in the investigation. Should said county board of health agree with the opinion of said health officer, and should the

person responsible for said nuisance or for said indecent material or thing still refuse or neglect to comply with the decision reached by said county board of health, the health officer to whom said complaint was first made shall proceed with as little delay as possible to cause said source of infection, unsanitary condition, or grossly offensive material or thing to be removed or abated at the expense of the person responsible therefor.

Oct. 9,
1908,
p. 490,
§ 16; as
amended
Aug. 15,
1907, p.
888, § 12.

719. Removal of infected persons not in their own homes.—

Whenever complaint shall be made in writing to the health officer of a county, city, or town that a person, not at his own home, is afflicted with any of the diseases named in section 716 of this Code, such health officer shall thoroughly and promptly investigate said complaint. If upon investigation said health officer is of the opinion that said complaint is well founded, he shall, if his opinion be concurred in by at least one member of the committee of public health of the county board of health, cause such person to be removed to such place as may have been provided for such cases in the county, city, or town in which such person is found; or if there is no such place provided for such cases, then, to such place as said health officer may deem suitable, subject to the approval of the authorities of the county, city, or town, as the case may be. The removal of said person shall be at the expense of said person; or in case the person removed is a minor, then at the expense of his parents or guardian; or if the person be indigent, then at the expense of the town, city, or county, as the case may be.

Aug. 15,
1907, p.
888, § 12.

720. Health officer authorized to enter infected houses.—

Whenever a house or part of a house is believed or known to have become infected by any of the diseases enumerated in section 716 of this Code, it shall be lawful for the health officer of the county, or of the municipality, according to the location of the said house, to enter said house or part of house, or to authorize other persons to enter said house or part of house, one or both, for the purpose of disinfecting it; provided that the disinfection shall be conducted with as little inconvenience to the owner or occupant and with as little damage to the house and to the furniture therein, as is compatible with thoroughness of disinfection.

b § 14. **721. Resistance of health officer.—**If in the attempt to perform any duty enjoined by either of the three preceding sections the health officer of a county, city, or town shall be forcibly resisted or threatened with forceful resistance, such health officer shall make affidavit before the judge of any court of record, the judge of probate, or any justice of the peace of said county that said forceful resistance has been made, or

threatened, thereupon, the officer before whom said affidavit has been made shall forthwith issue his warrant directed to the sheriff or to any bonded constable of said county, commanding said sheriff or constable to remove or abate under the direction of said health officer said unsanitary condition or source of infection or offensive or indecent material or thing, or to remove said afflicted person, and it shall be the duty of said sheriff or constable to whom said warrant shall be delivered to promptly execute the same. In executing every such warrant the said sheriff or constable shall have the right to enter by force into any such lot, piece of ground, house, or vessel, and upon any such pond, lake, or stream.

722. Landlords or lessors must notify tenants or lessees of infected houses.—It shall be unlawful for the owner of a house, or of a part of a house, in which a case of any of the diseases enumerated in section 716 of this Code has existed, or for an agent representing such owner, to lease or sell such house or part of a house without first notifying the proposed lessee or purchaser of the fact; provided, that such notification may be omitted in case the owner or agent holds a certificate from the health officer in whose jurisdiction such house or part of a house is located to the effect that it was after having been infected, thoroughly and scientifically disinfected.

Aug. 15,
1907, p.
808, § 16.

723. Inspection of place where food is sold.—The board of health of any county may, subject to the approval of the state board of health, prescribe rules for the inspection of public grocery houses, markets, restaurants, lunch stands, eating places, public dining rooms, together with pantries, kitchens, and yards belonging thereto, in said county, but no inspection of any such place shall be made until after the written consent of the proprietor, owner, or keeper of the place to be inspected has been filed with said board of health of said county, after which an inspection of said place may, without previous notice, be made at any hour of the day or night up to ten o'clock p. m., in case said places are kept open to the public at that hour. Once every month said board of health may publicly give notice of all places inspected during the previous month which, judged by rules as to sanitation prescribed by said board of health, and approved by the state board of health, have been found in good sanitary condition.

Oct. 9,
1908,
p. 499,
§ 18; as
amended
Aug. 15,
1907, p.
808, § 16.

724. Interment, when too long delayed.—When complaint is made in writing to the health officer of a county, incorporated city, or town, that the interment or cremation of the body of a deceased person has been withheld or delayed until such body has become grossly offensive or is likely to become a source of danger to the health of others, said health officer

Oct. 9,
1908, p.
499, § 19.

shall carefully investigate the facts, and if they be such as alleged in the complaint, he shall make affidavit thereto before the judge of probate of said county, whereupon such judge of probate shall issue a warrant addressed to the sheriff of said county commanding him to proceed forthwith at the expense of the estate of the deceased person, or if the body be that of a married woman, at the expense of her husband; or if the body be that of a minor, at the expense of the parents or guardian of such minor; or if the body be that of a pauper, at the expense of the county, incorporated city, or town, in which the deceased person may be found, to cause the body of such deceased person to be interred or cremated, according to the wishes of the nearest relative or relatives of the deceased person; and the sheriff to whom said warrant shall be delivered shall promptly execute said warrant. In the execution of said warrant the said sheriff shall have the right to summon such assistants as may be needed, provided that in the interment of the body of a person who has died of an infectious, contagious, or pestilential disease, said sheriff shall, if practicable, summon such persons as have had and have recovered from the disease of which the deceased person died, and provided, further, that nothing in this article shall apply to the body of a deceased person upon whom a coroner's inquest has been, or should be, ordered.

Oct. 9,
1906,
p. 499,
§ 20.

725. Transportation of dead bodies.—The state board of health shall prescribe the rules and regulations under which the bodies of deceased persons may be brought into, or transported through the state; and also the rules and regulations under which such bodies may be transported from one county to another in this state; but the said state board of health may, in its discretion, forbid the conveyance of the bodies of persons who have died of infectious, contagious, or pestilential diseases into, or through this state, or from one county to another county in this state. This section shall not be so construed as to prevent county boards of health from regulating the transportation of the bodies of deceased persons within their respective county limits.

Ib., § 21.

726. Location and extension of cemeteries.—Whenever it is proposed to locate a cemetery or to extend the boundaries of an existing cemetery, the party or parties so proposing shall make written application to the judge of probate and commissioners of the county, or to the mayor and council of an incorporated city or town, according to whether said cemetery, or extension of a cemetery, is to be located in the jurisdiction of one or the other of these authorities, describing accurately the location and boundaries of the proposed cemetery, or extension of a

cemetery. Before acting upon the application, the judge of probate and commissioners of the county, or the mayor and council of an incorporated city or town, as the case may be, shall refer the application to the board of health of the county for investigation from a sanitary standpoint. In making such investigation the county board of health shall take into consideration the proximity of the proposed cemetery, or extension of a cemetery, to human habitations, the nature of the soil, the drainage of the ground, the danger of pollution of valuable springs and streams of water, and such other conditions and surroundings as would bear upon the sanitary aspect of the situation. Having completed its investigation as promptly as can be done, the county board of health shall submit a report to the judge of probate and commissioners, or to the mayor and council, as the case may be, and either approve or disapprove the application. If the latter, the board shall set forth at length its reasons for such disapproval. Having received the report from the county board of health, the judge of probate and commissioners, or the mayor and council, as the case may be, shall either grant or deny the application, giving due weight in reaching either conclusion to the views expressed by the county board of health. Should the application be granted, the judge of probate and commissioners, or the mayor and council, as the case may be, shall issue to the party or parties making the application, and in such form as they may prescribe, a license to establish, or extend, the cemetery in question. The said license shall, upon the payment of fifty cents by the party or parties making the application, be recorded in the office of the judge of probate of the county.

727. (2432) (1285) (1542) Sanitary regulations; expenses.— In the administration of the public health and quarantine laws of the state, the appointment of all subordinate officers and employes shall be made by the health officer or officers in authority, subject, however, to the approval of the state board of health or of a county board of health, in accordance with their respective jurisdictions. All expenditures, except such as are provided for by specific appropriations, shall be under the control of the governor, the judge of probate and commissioners, or board of revenue, or of the municipal authorities according as such expenditures are made under state, county, or municipal authority.

(Feb. 19, 1875, p. 130, § 7; Dec. 14, 1876, p. 51, § 7.)

728. Recovery of expenses by health officer, sheriff, etc.— When an expense has been incurred by any health officer, sheriff, or bonded constable, in the execution of the duties required by the provisions of this article, said health officer, sheriff, or

Oct. 9,
1908,
p. 499.
§ 22.

bonded constable, as the case may be, shall have the right of action against the person responsible for the said expense for the recovery of the same; provided, that no more than is fair and reasonable shall be recovered, as the court or jury shall determine.

Oct. 9,
1908,
p. 490,
§ 23.

729. Repeal as to local laws.—All laws and parts of laws in conflict with the provisions of this article are repealed, but nothing in this article shall be so construed as to amend or repeal any state quarantine law or any local public health or quarantine law, applying to a county. Nothing herein contained shall be construed to repeal any local law regulating nuisances to the public health.

Aug. 15,
1907, p.
303, § 17.

730. Records of marriage furnished board by probate judge.

—Within the first five days of each calendar month it shall be the duty of the judge of probate of each county in this state to forward to the state board of health, at Montgomery, on blank forms to be supplied by said board, reports of all marriages that have occurred in the county for the preceding month, furnishing such information in regard to each marriage as is on record in his office.

Ib., § 18.

731. Divorce; records of furnished board by registers and clerks.—Within the first five days of each calendar month it shall be the duty of the clerk, register, or clerk and register of each court having equity jurisdiction in this state to forward to the state board of health, at Montgomery, and on blank forms to be supplied by said board, reports of all divorces that have been granted in the county for the preceding month, furnishing such information in regard to each divorce as is on record in his office, including the race and color of the parties.

Ib., § 27.

732. Conflict between municipal and health laws provided for.—In the event that any of the provisions of any general municipal bill which may be enacted by the legislature of the session of 1907 shall be in conflict with any of the provisions of this article or the general health and quarantine laws of the state, the provisions of this article and such general health and quarantine laws shall prevail.

As amended
Mar. 6,
1907, p.
303, §§ 1
and 2.

733. (2442) (1295) Appropriation, how paid.—There is appropriated to the state board of health the sum of fifteen thousand dollars annually, said sum to be expended for the following purposes:

1. To supervise the collection of the vital and mortuary statistics of the state, and to tabulate the same for publication;
2. To execute through its board of medical examiners the laws regulating the practice of medicine in this state;
3. To supervise the execution of the law regulating the practice of midwifery in the state;

County and Municipal Hospitals.

4. To distribute among the people of the state by means of bulletins, leaflets, etc., information in regard to the causation, propagation, and prevention of infectious and contagious diseases;

5. To provide an equipment for establishing a field hospital for isolating and treating cases of pestilential and infectious diseases, under great emergencies;

6. To provide an equipment for disinfecting houses under urgent and exceptional conditons;

7. To provide an equipment for illustrating popular lectures on the causes and modes of transmission of diseases, said lectures to be delivered under the direction of the state board of health. The sum herein appropriated shall be paid in monthly installments to the executive officer of the state board of health on the requisition of the president of said board, approved by the governor, through warrants drawn by the auditor on the treasurer. An itemized account of all expenditures made under this section shall be rendered annually to the governor.

ARTICLE 2.

COUNTY AND MUNICIPAL HOSPITALS. 734, 735.

SECTION.

734. Municipal and county authorities may establish hospitals.

SECTION.

735. Appropriation by the county to care for sick and wounded.

734. (2392) (1260) (1504) (1207) (956) **Municipal and county authorities may establish hospitals.**—The corporate authorities of any town or city, and the court of county commissioners, or board of revenue, of any county may each establish within the town or city, or within the county, hospitals, temporary or permanent, for the reception of the sick or infirm, or of persons suspected to have infectious or contagious diseases, and may make all needful rules and regulations for the control and management thereof, and shall have authority to confer by contract upon any institution for the instruction of students of medicine located in the city, town, or county in which such hospital is situated, upon such terms and for such number of years as they may determine, the right to select the visiting staff of physicians to such hospital for the collegiate course of each year and to hold clinics on the patients therein and have its students attend such clinics. The corporate authorities and the court of county commissioners, or board of revenue, may unite in the establishment of such hospitals, if deemed expedient, making them common for the use of the town or city and of the county, and in the making of rules and regulations for the control and management thereof, and shall

HEALTH AND QUARANTINE.
Quarantine Laws and Regulations.

jointly have the same powers and authority above conferred upon each.

(Aikin's Digest, pp. 352, 353; Clay's Digest, pp. 500, 501.) To the board of health is committed in a large degree the enforcement of the laws relating to public health, quarantine and sanitation.—Bragg v. State, 134 Ala. 165 (32 So. 767). The duties and authority of health officers are prescribed in the general way by this chapter of the Code.—Barrett v. Mobile, 129 Ala. 179 (30 So. 36). Original statutes regulating passed in 1807.—Toulmin's Digest, pp. 688, et seq.

Mar. 5,
1903, p.
183, § 1.

735. Appropriations by the county to care for sick and wounded.—The board of revenue or the court of county commissioners of any county of this state, having over thirty-five thousand population, are empowered and authorized to make appropriations out of the revenues of their respective counties to aid in maintaining and taking care of sick and wounded persons, who are unable to provide for themselves, in any hospital maintained in their respective counties exclusively for the care of the sick or wounded within the limits of such counties.

ARTICLE 3.

QUARANTINE LAWS AND REGULATIONS. 736-756.

SECTION.

- 736. Quarantine; how enforced.
- 737. Quarantine executed by committees of public health.
- 738. Duty of governor to proclaim quarantine.
- 739. Authority of health officer to investigate necessity for quarantine.
- 740. Refusal of investigation ground for declaring quarantine.
- 741. Detention ground; if without town or city limits assent of county commissioners necessary.
- 742. Quarantine authority of state paramount to all others.
- 743. State quarantine officers and guards permitted to pass quarantine lines.
- 744. Modifications or additions to quarantine regulations; how made.
- 745. Trains, steamboats, etc., under supervision of state board of health.

SECTION.

- 746. Trains and water crafts permitted to pass with open windows, and to stop for fuel, water, and provisions.
- 747. Affidavits by persons desiring to enter certain places.
- 748. County and municipal corporation quarantine; how proclaimed.
- 749. County or municipal quarantine enforced by county board of health.
- 750. Quarantine against part of county.
- 751. Enforcement of quarantine against part of county.
- 752. Expense of enforcing quarantine; how paid.
- 753. Escapes from quarantine.
- 754. Quarantine, when declared, reported to state health officer.
- 755. Rights of quarantine officers to board trains, steamboats, etc., and to ride thereon free of charge.
- 756. Appropriation for quarantine purposes.

Feb. 23,
1899, p.
129, § 1.

736. Quarantine, how enforced.—Quarantine shall be enforced by the state, by counties, and by incorporated cities and towns, in accordance with the provisions of this article.

737. Quarantine executed by committees of public health.—Feb. 28, 1899, p. 129, § 2
Whenever in this article rights are granted to, or duties imposed upon, the state board of health or a county board of health, such rights and such duties may be exercised or executed by the committees of public health and health officers, respectively, of said boards, as their legal and accredited agents.

738. Duty of governor to proclaim quarantine.—Ib., § 3.
The governor, whenever he deems it necessary, or whenever so advised by the state board of health, shall proclaim quarantine, and when proclaimed, said board of health shall enforce such quarantine, under such regulations as may, from time to time, be prescribed.

739. Authority of health officer to investigate necessity for quarantine.—Ib., § 4.
The state health officer, or any other member of the state board of health designated by him, or by the president of the state board of health, or the state committee of public health, may go into any place in this state for the purpose of making such investigations as shall determine the necessity for quarantine. Quarantine may be established pending such investigation, or upon authentic information of the existence of a quarantinable disease at any place from which such disease is likely to invade the state, or any portion thereof.

740. Refusal of investigation ground for declaring quarantine.—Ib.
Should permission for such investigation into the nature of the disease as is herein provided for be refused by the authorities of any place outside of this state, such refusal will constitute ground for declaring quarantine against such place.

741. (2398) (1263) (1507) (1210) (959) Detention ground; if without town or city limits assent of county commissioners necessary.—
The authorities of any incorporated city or town may establish a place of detention for persons who may come from territory under quarantine by such incorporated city or town, but if the place selected be without the limits of the town or city the assent of the commissioners of the county in which such place is located must be obtained.

The policy of health and quarantine laws is to regulate and restrain temporarily, but not beyond the occasion and scope of necessity; self-defensive is the limitation on police power of state imposed by the federal constitution.—*Greensboro v. Ehrenreich*, 80 Ala. 582. Ordinances passed under quarantine power must not be unreasonable, partial or unfair, nor in restraint of trade, nor contravening the general laws of public policy.—*Greensboro v. Ehrenreich*, 80 Ala. 582. Municipal corporations have power to abate nuisances, but cannot prohibit a lawful business not necessarily a nuisance; cannot under guise of police power prohibit lawful trade; may establish quarantine and provide reasonable inspection and regulation for disinfecting or destroying germs of diseases as far as practicable.—*Ib.*

Feb. 28,
1899, p.
129, § 5.

742. Quarantine authority of state paramount to all others.—The quarantine authority of the state shall be paramount to that of any county, city, or town therein.

Ib.

743. State quarantine officers and guards permitted to pass quarantine lines.—All state quarantine officers and guards, upon presentation of such credentials and compliance with such regulations as may be prescribed by the state board of health, shall be permitted to pass all quarantine lines established by county, city, or town authority.

Ib., § 6.

744. Modifications or additions to quarantine regulations, how made.—When proclamation of quarantine has been issued by the governor, the state health officer may, subject to the approval of the state board of health, amend the regulations originally adopted, and may add to or take from the territory under quarantine, provided that he reports to the governor all amendments and changes made, together with the reasons therefor.

Ib., § 7.

745. Trains, steamboats, etc., under supervision of state board of health.—During the existence of quarantine, state or local, the supervision of trains or all steamboats and water crafts affected by such quarantine, shall be placed under the state board of health; and the quarantine authorities of any county, incorporated city, or town traversed by such roads, or to which such steamboats or water craft shall ply, may decline to receive freights, mails, or express matter from a place infected with a quarantinable disease, of which refusal the said authorities must give the state health officer immediate notice.

Ib.

746. Trains and water crafts permitted to pass with open windows, and to stop for fuel, water, and provisions.—Trains on said roads shall be permitted to pass with open windows, if the passengers and crews thereon so desire, and to stop for fuel, water, and provisions at such stations as are as remote as practicable from thickly inhabited places.

Ib., § 8.

747. Affidavits by person desiring to enter certain places.—Any person who makes affidavit before a quarantine officer or guard, engaged in enforcing quarantine for the protection of a place which said person wishes to enter, and who furnishes such other evidence as may be prescribed by the state board of health that he has not since the appearance of a quarantinable disease, then existing, been in any place against which quarantine has been legally proclaimed, shall be permitted to enter or remain in the place to which he desires to go. Any person who has been in a place then under quarantine, by the authority of the state, or by that of a county, city, or town, with the approval of the state board of health, and who has since complied with the requirements as to detention and disinfection,

one or both, prescribed or approved by the state board of health, and who shall make affidavit thereto, and furnish such other evidence thereof, as said board may prescribe or demand, shall be permitted to enter or remain in any place in this state.

748. County and municipal corporation quarantine; how proclaimed.—Upon the recommendation of the board of health of a county, and subject to the approval of the state board of health, quarantine may be proclaimed for a county by the probate judge thereof, or in case of his inability to act, then by the presiding officer of the board of commissioners, or revenue, and for an incorporated city or town by the mayor, or chief executive officer thereof. In case of emergency, quarantine may be proclaimed by said officers without such recommendations, subject, however, to approval, modification, or withdrawal by the board of health of the county. Feb. 28,
1899, p.
120, § 9.

749. County or municipal quarantine enforced by county board of health.—When quarantine has been proclaimed for a county, incorporated city or town, in accordance with the provisions of this article, its enforcement shall be entrusted to the health officer of the county, city, or town, respectively, the administration of any one or all of whom shall be subject to the approval of the board of health of the county. Ib.

750. Quarantine against part of county.—When a contagious or infectious disease of quarantinable nature exists in a part of a county, the remainder of the county and any incorporated city, or town therein, may establish quarantine against the infected portion or portions of the county in accordance with the following provisions; if a majority of the committee of public health, acting for the board of health of the county, reside in the uninfected portion of the county, such majority shall have the power of the full committee, as defined in the preceding sections of this article. If, however, a majority of the said committee reside in the infected portion of the county, then said committee can no longer act, and in that event the uninfected portion of the county may establish quarantine as follows: the judge of probate, the president, or any two members of the board of commissioners, or of revenue, if they, or either, reside in the uninfected portion of the county, may issue in the order named and upon the recommendation of the county health officer, in case he resides in the uninfected portion of the county, or in default of such residence, or on account of his absence from the county, then without such recommendation, a proclamation of quarantine against the infected portions of the county, subject to approval or modification by the state board of health. Likewise, the mayor or chief executive officer of any incorporated city or town in the uninfected Ib., § 10.

HEALTH AND QUARANTINE.
Quarantine Laws and Regulations.

portion of the county, may issue, on the recommendation of the health officer of his city, or town, or in the absence of such officer, then without such recommendation, a proclamation of quarantine against the infected portion of the county, subject to approval or modification by the state board of health.

Feb. 23,
1899, p.
129, § 10.

751. Enforcement of quarantine against part of county.—A proclamation of quarantine issued in accordance with the provisions of the foregoing section by the judge of probate, the president or any two members of the board of commissioners, or of revenue, for the protection of a portion of a county, shall be enforced by the health officer of the county, provided, he resides in the uninfected portion of the county, but in case he does not so reside, or in the event of his absence or disability, then such proclamation shall be enforced in such way as the officer issuing the same may direct. A proclamation of quarantine issued by the mayor or chief executive officer of any incorporated city or town, in accordance with the provisions of the foregoing section, shall be enforced by the health officer of the city or town, and in case of his absence or disability, then in such way as the officer issuing the proclamation may direct.

Ib.
(r. c. c.)

752. Expense of enforcing quarantine; how paid.—The expense of enforcing any quarantine for a county, or for a portion thereof, as provided for in the preceding sections, shall be defrayed by the court of county commissioners, or of revenue of the county; that incurred in conducting a quarantine for an incorporated city or town shall be defrayed by the authorities of the city or town declaring quarantine.

753. (2402) (1267) (1511) (1217) (966) Escapes from quarantine.—Should a person who has been legally placed in detention by a quarantine officer attempt to make his escape, such person may be forcibly detained; or, should such person make his escape, complaint on oath may be made before the judge of probate or a justice of the peace by the officer in charge, or by one of his assistant officers, whereupon such judge of probate, or justice of the peace, shall issue his warrant, authorizing a sheriff, bonded constable, or other lawful officer, to arrest and deliver such person into the custody of the quarantine officer in charge of the place of detention.

Ib., § 11.

754. Quarantine, when declared, reported to state health officer.—Every quarantine declared or established by the authority of any county, incorporated city, or town in this state, together with the regulations prescribed thereunder, shall forthwith be reported to the state health officer by the health officer of the county, city, or town establishing or conducting such quarantine.

Live Stock Sanitary Board.

755. Rights of quarantine officers to board trains, steam-boats, etc., and to ride thereon free of charge.—Written authority to act as quarantine officer for this state or for any county, incorporated city, or town therein conducting a quarantine approved by the executive officer of the state board of health, shall entitle the holder thereof to board any railroad train—passenger or freight—and any steamboat or other water craft in this state, and ride thereon, free of cost, to such place or places as the discharge of his duties may demand.

Feb. 23,
1899, p.
129, § 12.

756. Appropriation for quarantine purposes.—The sum of twenty thousand dollars, or so much thereof as may be necessary, is annually appropriated to defray the expenses that may arise under the operation of this article, the said appropriation or any part thereof to be paid by the state treasurer on warrants issued by the state auditor, these to be based on requisitions signed by the state health officer and approved by the governor. The state board of health shall annually make to the governor a report by items of all expenditures incurred under this article.

Ib., § 17, as
amended
Aug. 14,
1907, p.
651, § 1.

ARTICLE 4.

LIVE STOCK SANITARY BOARD. 757-770.

SECTION.

757. State live stock sanitary board established.
758. Powers generally.
759. State veterinarian and assistants.
760. Quarantine stalls or lots; notice of establishing.
761. Transportation of live stock under quarantine.
762. Live stock brought into state accompanied by health certificate.
763. Cleaning and disinfecting infected or infested places.
764. Veterinarian or assistants may enter premises to execute quarantine laws.

SECTION.

765. Cattle ticks, or other infectious, contagious, or communicable disease of live stock, eradication of.
766. Federal veterinarians appointed.
767. Annual appropriation for expenses of live stock sanitary board.
768. Grand juries, charge to; inquisitorial powers of.
769. Annual report to governor.
770. Counties exempt from provisions of article.

757. State live stock sanitary board established.—The commissioner of agriculture and industries of the State of Alabama, the professor of animal industry, and the professor of veterinary science of the Alabama Polytechnic Institute, shall constitute a board to be known as the state live stock sanitary board. The commissioner of agriculture and industries shall be chairman, and the veterinarian on the board shall be secretary of the board.

Mar. 12,
1907, p.
356, § 1.

758. Powers generally.—The state live stock sanitary board shall have full power to make or enact such rules and regula-

Ib.

tions as they may deem necessary for governing the movement, transportation, or disposition of live stock that may be quarantined as hereinafter provided on account of being affected with, or exposed to, a contagious, or communicable disease, or on account of being infected or infested with the carrier or the carriers of the cause or the causes of a contagious, infectious, or communicable disease of live stock.

Mar. 12,
1907, p.
359, § 2.

759. State veterinarian and assistants.—The professor of veterinary science of the Alabama Polytechnic Institute shall be state veterinarian of Alabama. The state veterinarian shall, by and with the advice and consent of the state live stock sanitary board, nominate as many assistant state veterinarians and state live stock inspectors as they may deem necessary and as the funds at their disposal shall permit.

Ib., § 8.

760. Quarantine stalls or lots, notice of establishing.—The state veterinarian shall quarantine a stall, lot, yard, pasture, field, town, city, township, county, or any part of the State of Alabama, when he shall determine the fact that live stock in such place or places are affected with a contagious, infectious, or communicable disease, or when said live stock are infested, or infected, with the carrier, or carriers, of a contagious, infectious, or communicable disease. The state veterinarian or an assistant veterinarian shall give written or printed notices of the establishment of said quarantine to the owners or keepers of said live stock, and to any officer or agent of railroad, steamboat, or other transportation companies doing business in or through the quarantined part or parts of the state.

Ib., §§ 4
and 5.

761. Transportation of live stock under quarantine.—No railroad company, or the owners or masters of any steam or other vessel or boat, shall receive for transportation or shall transport live stock from any quarantined district into any other part of Alabama, except as hereinafter provided. No person, corporation, or company shall deliver live stock for transportation to any railroad company or sailing or steam vessel or boat, in a quarantined district of Alabama, except as hereinafter provided. No person, company, or corporation shall drive or cause to be driven live stock on foot, or transport live stock in a private conveyance, or cause live stock to be transported in a private conveyance from a quarantined district to a non-quarantined part of Alabama, except as hereinafter provided. Live stock may be moved within the limits of a quarantined district or from a quarantined district of Alabama only under and in compliance with, the rules and regulations of the state live stock sanitary board. It shall be unlawful to move or to allow to be moved, any live stock from one place to another within the limits of a quarantined district or

Live Stock Sanitary Board.

from a quarantined district to a non-quarantined district of Alabama, in any other manner or method, or under any conditions other than prescribed by the rules and regulations of the state live stock sanitary board.

762. Live stock brought into state accompanied by health certificate.—All live stock, except such live stock as are to be used for immediate slaughter, when brought into Alabama by a person, company, or corporation, railroad or other transportation companies, shall be accompanied by a certificate of health, and said certificate shall state that said animal or animals are free of contagious, infectious, or communicable disease, and the carrier or carriers of the cause or causes of such diseases. This certificate must be made by a qualified veterinarian immediately after he has personally examined the live stock and before the live stock have been shipped into Alabama. This certificate shall be attached to, and accompany, the shipping bill of the live stock to the place to which the live stock are shipped, and the owner of the live stock or agent of the transportation company shall mail or send said certificate to the state veterinarian immediately following the arrival of the live stock at its place of destination. The state veterinarian shall furnish qualified veterinarians and transportation companies with blank health certificates at actual cost.

Mar. 12,
1907, p.
359, § 6.

763. Cleaning and disinfecting infected or infested places.—Ib., § 7. Owners, renters, or parties in possession of quarantined live stock or quarantined places shall follow the directions in the rules and regulations of the state live stock sanitary board in cleaning and disinfecting infected live stock and infested or infected quarantined places, and in destroying the carriers of the cause of a contagious, infectious, or communicable disease, that infest, or infect, live stock and quarantined places. Said cleaning of said live stock and the disinfecting of said places, and destroying of said carriers, shall be done by the owners or the persons in possession of the infected live stock and places, in a reasonable time after receiving a written or printed notice from the state veterinarian, an assistant state veterinarian, or a state live stock inspector.

764. Veterinarian or assistants may enter premises to execute quarantine laws.—Ib., § 8. The state veterinarian, the assistant state veterinarian, and the state live stock inspectors, may enter upon the premises or into any barns or other buildings where live stock are temporarily or permanently kept in the State of Alabama in the discharge of the duties prescribed in this article. No person or persons shall assault, resist, oppose, prevent, impede, or interfere with the state veterinarian, an assistant state veterinarian, or a state live stock inspector in the

execution of his or their duties, or on account of the execution of his or their duties.

Mar. 12,
1907, p.
.369, § 9.

765. Cattle ticks, or other infectious, contagious, or communicable disease of live stock; eradication of.—The work of cattle tick eradication or the suppression or eradication of any other infectious, contagious, or communicable disease of live stock shall be taken up under the provisions of this article in any county or any part of a county or any part of the State of Alabama, when the state live stock sanitary board may deem it best. The county commissioners of any county in which the state or federal authorities take up the work of tick eradication or the suppression of any infectious, contagious, or communicable disease of live stock, may appropriate for aiding in such work, such sum as the county commissioners may deem adequate and necessary.

Ib., § 10.

766. Federal veterinarians appointed.—The state live stock sanitary board may appoint or elect the federal veterinarians and live stock inspectors who are doing work in Alabama, as assistant state veterinarians and state live stock inspectors, provided they consent to act without pay from the State of Alabama.

Ib., § 12.

767. Annual appropriation for expenses of live stock sanitary board.—There is appropriated annually the sum of five thousand dollars to be disbursed under the direction of the state live stock sanitary board to pay the actual expenses of the live stock sanitary board in attending meetings, to pay for the printing of the official blanks, the annual reports of the state veterinarian, and the rules and regulations of the state live stock sanitary board, to pay the state veterinarian five hundred dollars per year and expenses while on actual duty, and each assistant state veterinarian five dollars per day and expenses while on actual duty, and each state live stock inspector one to three dollars per day and expenses while on actual duty; and to pay such other expenses as may be necessary in carrying out the provisions of this article.

Ib., § 18.

768. Grand juries, charge to; inquisitorial powers of.—The judges of the circuit and criminal courts shall give the preceding sections in special charge to each future grand jury empanelled in this state, and such grand jury shall be clothed with, and authorized to, exercise inquisitorial power for the carrying out and enforcement of this article.

Ib., § 14.

769. Annual report to governor.—The state veterinarian shall make an annual report to the governor of Alabama, giving a full account of the work done and a detailed report of the money expended.

Sanatorium for Consumption and Tuberculosis.

770. Counties exempt from provisions of article.—None of the provisions of this article shall apply to or be put in force in a county where the majority of its area is not under a stock law, or a law prohibiting cattle from running at large.

Aug. 6,
1907, p.
562, § 16.

ARTICLE 5.

SANATORIUM FOR CONSUMPTION AND TUBERCULOSIS. 771-792.

SECTION.

771. Sanatorium established.
772. Board of trustees of sanatorium.
773. Members of board of trustees of sanatorium; appointment, election, and terms of office.
774. Vacancies in office; how filled.
775. Superintendent of sanatorium; election and removal of.
776. Assistants, agents, and servants; selection and removal of.
777. Land and site for sanatorium, selection of.
778. Proclamation announcing opening of sanatorium.
779. Superintendent and trustees, duties of.
780. Patients or cases of tuberculosis, classified.
781. Patients, whites and negroes shall be separated.

SECTION.

782. Patients, men and women shall be separated.
783. Farm and dairy selected and established in connection with sanatorium.
784. Patients classified as pay patients and state patients.
785. Patients; how admitted to sanatorium.
786. Appropriation for sanatorium.
787. Treasurer and steward of sanatorium; election, bond of.
788. Accounts and books kept open for inspection.
789. Officers must reside in sanatorium or on grounds; board and lodging free.
790. Rules of trustees.
791. Compensation of trustees.
792. Reports annually made to governor.

771. Sanatorium established.—There is created and established a state sanatorium for the study of tuberculosis, disseminating the results of the study, showing the best methods of treating it and preventing its spread; and for the care and treatment of such persons as may be admitted to the sanatorium.

Aug. 14,
1907, p.
705, § 1.

772. Board of trustees of sanatorium.—There is created and established a board of seven persons who shall constitute the board of trustees of the state sanatorium, to be styled the Alabama Sanatorium for Consumption and Tuberculosis.

773. Members of board of trustees of sanatorium; appointment, election, and terms of office.—The governor shall be a member of said board of trustees and chairman of the same. The state health officer shall be a member and secretary of the same. The governor shall appoint the other five members, three of whom shall be practicing physicians and members in good standing of the Medical Association of Alabama, who shall serve, respectively, until the first Mondays in May, 1908, 1909, 1910, 1911, and 1912, and until their successors are respectively elected or appointed, as herein provided. The

Sanitorium for Consumption and Tuberculosis.

successors of those members whose terms expire in 1908, 1909, 1910, shall be elected by the said Medical Association of Alabama, and the successors of those whose terms expire in 1911 and 1912 shall be appointed by the governor, and each of said five members shall serve for a term of five years and until his successor is elected or appointed; and the successor of each of said members shall thereafter be elected or appointed for a term of five years and until his successor is elected or appointed, as hereinafter provided.

Aug. 14,
1907, p.
705, § 2.

774. Vacancies in office; how filled.—Vacancies from any cause shall be filled for the unexpired terms by appointment by the governor of members appointed by him, and by the Medical Association of Alabama in the offices elected by it.

Ib., § 3.

775. Superintendent of sanitorium; election and removal of.—The trustees shall elect a superintendent of the sanitorium, who must be a learned physician of skill and experience, and who shall reside in the sanitorium and give his whole time to the management of the work and affairs of the sanitorium, and receive such salary as may be fixed by the trustees, and who shall hold office for the term prescribed by the trustees, and may be removed by them whenever, in their judgment, the best interests of the sanitorium require it.

Ib., § 4.

776. Assistants, agents, and servants; selection and removal of.—The superintendent shall, with the approval of the trustees, elect such assistants as may be necessary, who are learned and skilled physicians, who shall, under the direction of the superintendent, make research and investigation of and concerning tuberculosis, its nature, treatment, and cure, and shall also select such agents and servants as the trustees may deem necessary to properly carry on the work of the sanitorium, and the trustees shall fix the time and terms of their employment and their compensation, and shall remove any or all of such employes, whenever the best interests of the sanitorium and its work require their removal.

Ib., §§ 5
and 6½.

777. Land and site for sanitorium; selection of.—The trustees shall select and buy a tract of land of not less than one hundred and sixty acres, in a healthful locality, with good natural drainage, and an abundant supply of good water, and shall cause to be erected thereon the necessary buildings for residences, laboratories, storerooms, barns, stables, cottages for patients, and all and every structure or thing necessary for the proper conduct of the sanitorium, and shall take the title thereto in the name of the State of Alabama, and until the state insures the property the trustees shall insure such buildings as may be erected on property bought by them, in the name of the State of Alabama, for the use of the Alabama Sanitorium.

Sanitorium for Consumption and Tuberculosis.

Should a suitable location be found on land already owned by the state, the governor is authorized, in his discretion, to permit the sanitorium to be established upon such land.

778. Proclamation announcing opening of sanitorium.—Aug. 14, 1907, p. 706, § 6. When the buildings constructed under the provisions of this article are so far completed that, in the opinion of the trustees, they may be properly used for the purpose for which said sanitorium is designed, the governor shall issue a proclamation announcing it opened for the reception of patients.

779. Superintendent and trustees; duties of.—Ib., § 7. The superintendent shall employ, direct, and control all help serving about said sanitorium. In addition to the other duties herein prescribed, said trustees shall, from time to time, cause to be issued and promulgated, through the secretary, bulletins, setting forth needful and proper information to the public as to the character of tuberculosis, and as how best to combat and control its dissemination and the best modes of its treatment.

780. Patients or cases of tuberculosis classified.—Ib., § 8. Cases of tuberculosis shall be divided into three classes, viz.: (1) curable cases; (2) cases of questionable curability; (3) incurable cases. Patients belonging to the first shall be admitted to the sanitorium; those belonging to the second class may be admitted if, after careful examination, it is believed that the disease can be either arrested or cured in such cases; patients belonging to the third class shall not be admitted.

781. Patients; white and negroes shall be separated.—Ib., § 9. The trustees of the sanitorium shall arrange the cottages for the occupancy of patients so that those for negro patients shall be entirely separate from those for white patients, and if the topography of the land will permit it, must be placed out of sight of those occupied by white patients.

782. Patients; men and women shall be separated.—Ib. The cottages for the men and women of each race shall be separate and apart from each other, and if the surface of the earth and the trees thereon do not furnish natural barriers and screens, they must be grown out of strong, quickly growing hedge plants and ornamental vines.

783. Farm and dairy selected and established in connection with sanitorium.—Ib., § 10. The trustees in selecting a location for the sanitorium may have regard to fertile farm land lying adjoining or within convenient distance, and must buy enough of such land to establish and maintain a dairy farm thereon to supply the sanitorium with milk, eggs, poultry, fresh meats, and vegetables.

Aug. 14,
1907, p.
706, § 11.

784. Patients classified as pay patients and state patients.—The charges to such inmates of the sanatorium as are able to pay for the same, or of such as have persons, or kindred, bound by law, or otherwise, to maintain them, shall be paid by such inmates, by such persons, or such kindred, at a rate to be determined by the board of trustees of said sanatorium. The trustees may in their discretion receive other patients who have no means to pay for treatment, and the board of all such patients shall be paid from the treasury of the state, provided that the board of all such patients does not exceed four dollars and twenty cents per week for each of such indigent patients. Said payments shall be made on the first days of October, January, April, and July of each year; and the auditor shall issue his warrant for that amount upon certificates of said board of trustees.

Ib., § 12.

785. Patients; how admitted to sanatorium.—The trustees shall, when the sanatorium is declared open for the reception of patients, advise and urge the physicians and health officers of the state to endeavor to so educate the people in regard to the advantages and purposes of the institution as to induce any who may be laboring under tuberculosis, and whose cases are in the proper stage, to avail themselves of the benefits of the institution. The admissibility of a patient must be settled as far as can be done by correspondence with the superintendent before the patient leaves home, subject, however, to review upon the arrival of the patient at the sanatorium.

Ib., §§ 13,
14 and 16.

786. Appropriation for sanatorium.—There is appropriated out of any moneys in the state treasury the sum of forty thousand dollars to buy the land and to build thereon the necessary and suitable buildings, machinery, waterworks, sewers, apparatus, etc., and to supply the necessary tools, vehicles, and live stock. Twenty thousand dollars of said sum appropriated shall be paid by or before the 30th day of September, 1907; ten thousand dollars by or before the 30th day of September, 1908; five thousand dollars by or before the 30th day of September, 1909; five thousand dollars by or before the 30th day of September, 1910. The money hereby appropriated shall be paid to the treasurer of the sanatorium upon the order of the superintendent, approved by the governor, but must not be drawn except as actually needed. All of the sum appropriated for the year ending on the 30th day of September, 1907, may be paid after that date, and shall be available until used by the trustees for which it was appropriated. There is appropriated out of any money in the state treasury ten thousand dollars annually, or so much thereof as may be needed, to be paid in quarterly payments on the last

Sanatorium for Consumption and Tuberculosis.

day of every quarter, and to be used for the payment of the salaries of the superintendent and other officers, agents, and servants of the sanatorium, and the general expenses thereof. For the support and care of all indigent patients not otherwise paid for as herein provided, treated in sanatorium, a sum to be regulated by the trustees, and not exceeding sixty cents per day for every indigent patient, shall be paid by the state at the end of every month. The superintendent must make up an account showing the name, sex, and color of every such indigent patient and the number of days he was in the sanatorium, and the county of his residence, and certify to its correctness, whereupon the state auditor must, if he finds the account correct, draw a warrant on the state treasurer for the amount thereof, payable to the superintendent of the sanatorium, who shall pay over the amount to the treasurer of the sanatorium.

787. Treasurer and steward of sanatorium; election; bond of.—The trustees shall, at such time as they deem proper, elect a treasurer and a steward, shall fix their terms of office, and shall exact of them bonds in such amount and with such sureties as they may deem adequate and safe, and may from time to time require of them additional or new bonds. The trustees may likewise require any agent or employe of the sanatorium to furnish a bond in such amount and with such sureties as they may deem proper. Aug. 14,
1907, p.
705, § 15.

788. Accounts and books kept open for inspection.—The accounts and books of the treasurer shall at all times be open to the inspection of the trustees. Ib., § 17.

789. Officers must reside in sanatorium or on grounds; board and lodging free.—The superintendent, assistant physicians, and all other employes shall reside in the sanatorium, or on the grounds thereof, and shall in addition to such salaries and wages as may be fixed for them receive board and lodging free of cost. Ib., § 18.

790. Rules of trustees.—The trustees shall adopt rules for their own government not inconsistent with this article, provided that they shall meet at least annually. Ib., § 19.

791. Compensation of trustees.—The trustees shall not receive any compensation for their services, but their expenses while traveling and while at the sanatorium on the business of the sanatorium shall be paid out of the funds of the sanatorium. Ib., § 20.

792. Reports annually made to governor.—The trustees, superintendent, the treasurer, and such other persons as receive and disburse funds in connection with the sanatorium, shall make complete reports to the governor annually. Ib., § 21.

CROSS REFERENCES.

HEALTH AND QUARANTINE (Political Code)	698-792
HEALTH, QUARANTINE, AND FOOD; PENAL STATUTES CONCERNING (Criminal Code)	7049-7083
HEALTH AND QUARANTINE FOR MUNICIPALITIES (Political Code)	1208-1212
HEIRS AND DISTRIBUTEES (Civil Code)	3754-3777
HIGH SCHOOLS (Political Code)	1861-1868
HIGHWAYS (Civil Code)	5765-5843
HIRING CONVICTS (Criminal Code)	6479-6607

CHAPTER 23.

HISTORY AND ARCHIVES. 793-810.

SECTION.

793. Department of archives and history established.
 794. Objects and purposes.
 795. Board of trustees, how constituted.
 796. Powers, duties, and authority of board.
 797. Director, election of.
 798. Oath of director.
 799. Duties of director.
 800. Authority of officials.
 801. Books, records, or documents, or copies thereof.
 802. Statistical register.

SECTION.

803. Data in reference to Alabama soldiers.
 804. Salary of director.
 805. Appropriation.
 806. Printing, blanks, circulars, etc., how paid.
 807. Monument of Fort Louis de la Mobile.
 808. Appropriations as to.
 809. Appointment of stenographer.
 810. Publication of state papers, official records, and of historical materials.

Feb. 27,
1901, p.
126, § 1.

793. Department of archives and history established.—There is for the State of Alabama a department of archives and history, to be located in the state capitol in apartments to be set aside for its use by the governor.

Ib.

794. Objects and purposes.—The objects and purposes of the said department are, the care and custody of official archives, the collection of materials bearing upon the history of the state, and of the territory included therein from the earliest times; the completion and publication of the state's official records and other historical materials; the diffusion of knowledge in reference to the history and resources of the state; the encouragement of historical work and research; to encourage and assist in the establishment of public school libraries, and in the improvement and strengthening of those already in existence; to give advice and provide assistance

Mar. 5,
1907, p.
259, §§
1 and 2.

to librarians and library workers in library administration, methods, and economy, and to conduct a system of traveling libraries. It shall bring together and arrange for ready consultation a reference collection of materials for the use of the members of the legislature, state officers and others on all subjects which may, from time to time, be deemed of public interest and importance to the people of the state, and the performance of such other acts and requirements as may be enjoined by law.

795. Board of trustees; how constituted.—Said department shall be under the control of a board of nine trustees, one from each congressional district, and the names of the said trustees, with their particular terms of service, are as follows, viz.: Peter J. Hamilton, for the first congressional district, to serve for two years; Jefferson M. Faulkner, for the second district, to serve two years; W. D. Jelks, for the third district, to serve two years; J. H. Johnson, for the fourth district, to serve four years; W. H. Blake, for the fifth district, to serve four years; Henry B. Foster, for the sixth district, to serve four years; Oliver D. Street, for the seventh district, to serve six years; William Richardson, for the eighth district, to serve six years; and Samuel Will John, for the ninth district, to serve six years.

Feb. 27,
1901, p.
126, § 2.

796. Powers, duties, and authority of board.—The said board shall fill all vacancies occurring therein, whether by expiration of term of service, or by death or resignation, but the names of all newly elected members shall be communicated to the next ensuing regular session of the state senate for confirmation, and in case it shall reject any of the said newly elected trustees, it shall proceed forthwith to fill the vacancy or vacancies by an election. All trustees appointed to succeed the present members or their successors whose terms shall have fully expired shall serve for a term of six years, and appointees to fill vacancies by death or resignation shall only serve out the unexpired terms of their predecessors. The board shall hold at the state capitol at least one regular meeting during every year, and as many special meetings as may be necessary, and at said meeting five members shall constitute a quorum. The governor of the state shall be a member of said board, and he shall, as far as possible, lend every encouragement to the success and upbuilding thereof. The director shall be the secretary of the board. The trustees shall receive no compensation for their services other than the amount of their traveling expenses actually paid out while in attendance on the meetings of the board or on the business of the department. The board may adopt rules for its own

ib.
(r.c.c.)

government, and also for the government of the department; may elect a director, and may provide for the selection or appointment of other officials or employes, as may be authorized; may provide for the publication of historical material pertaining to the state under the supervision of the director; may have the direction and control of the marking of historical sites or houses, and the exploration of prehistoric and Indian mounds and other remains existing in the state; may control and expend such appropriations as may be made for the maintenance of the department, and may do and perform such other acts and things as may be necessary to carry out the true intent and purpose of this article.

Feb. 27,
1901, p.
126, § 8.

797. Director; election of.—The department shall be under the immediate management and control of a director, to be elected by the board of trustees, whose term of service shall be six years and until his successor is elected and qualified.

Ib.

798. Oath of director.—The director shall take an oath of office as other public officials, and shall be commissioned in like manner.

Ib.

799. Duties of director.—The director shall devote his time to the work of the department, using his best endeavor to develop and build it up, so as to carry out the designs of its creation. He shall have the control and direction of the work and operations of the department; he shall preserve its collections, care for the official archives that may come into his custody, collect as far as possible all materials bearing upon the history of the state and of the territory included therein, from the earliest times, prepare the biennial register hereinafter provided, diffuse knowledge in reference to the history and resources of the state; and he is charged with the particular duty of gathering data concerning Alabama soldiers in the war between the states. He shall make an annual report to the board of trustees, to be by them transmitted to the governor, to be accompanied by such historical papers and documents as may be deemed of importance by him, and the director shall contract for the printing and binding of said report, which shall be paid for as other public printing and binding. He shall prepare for the press, contract for, and supervise the publication of volume two of the report of the Alabama History Commission, the said volume to be similar to volume one of said report as to printing, paper, and binding, and to be paid for out of the public printing fund.

Ib., § 4.

800. Authority of officials.—Any state, county, or other official may, in his discretion, turn over to the department for permanent preservation therein any official books, records,

documents, original papers, newspaper files, and printed books not in current use in their offices.

801. Books, records, or documents, or copies thereof.—Feb. 27, 1901, p. 128, § 4. When books or records have been surrendered in accordance with the foregoing section, copies therefrom shall be made and certified by the director upon the application of any person interested, which certificate shall have all the force and effect as if made by the officer originally in the custody of them, and for which the same fees shall be charged, to be collected in advance.

802. Statistical register.—Ib., § 5. An official and statistical register of the State of Alabama shall be compiled every two years by the director to contain: (1) Brief sketches of the several state officials, the members of congress from Alabama, the supreme court judges, the members of the senate and house of representatives of the State of Alabama; (2) rosters of all state and county officials; (3) lists of all state institutions with officials; (4) state and county population and election statistics; (5) miscellaneous statistics; and said register shall be published in an edition of one thousand copies for free distribution, the printing and binding to be paid for as other printing and binding.

803. Data in reference to Alabama soldiers.—Ib., § 6. The department shall make special effort to collect data in reference to soldiers from Alabama in the war between the states, both from the war department at Washington and also from private individuals, and to cause the same to be prepared for publication as speedily as possible.

804. Salary of director.—Ib., § 8. Feb. 22, 1907, p. 63, § 1. The director shall receive for his services the sum of twenty-five hundred dollars per annum, payable monthly as other state officials, and a continuing appropriation for the said annual salary is hereby made.

805. Appropriation.—Feb. 27, 1901, p. 126, § 7; Feb. 8, 1907, p. 30, sub-div. 32. (r.c.c.) In addition to the salary of the director hereinabove appropriated, the sum of three thousand dollars per annum is appropriated for the maintenance of the said department, and the auditor is authorized to draw his warrant on the state treasurer for the whole or any part of the said amount in such sums and in such manner as may be authorized by the board of trustees.

806. Printing, blanks, circulars, etc.; how paid.—Ib. All printing, blanks, circulars, notices, or forms which may be needed for the use of said department that may be embraced in class four of the public printing act shall be executed by the public printer, and shall be paid for as other official work done by him.

Feb. 26,
1903, p.
74, § 1.

807. Monument of Fort Louis de la Mobile.—The granite monument marking the site of Fort Louis de la Mobile, founded by Iberville and Bienville, and twenty-five feet square of land upon which the monument is erected, which property was conveyed to the state by the citizens of the city of Mobile, and which is located at twenty-seven-mile bluff on Mobile river, is a part of the public property of the state and must be cared for by the director of the department of archives and history.

Ib., § 2.

808. Appropriations as to.—One hundred and fifty dollars is appropriated, from any money in the treasury, to raise a monument so as to be visible from Mobile river, and fence or otherwise mark and beautify the spot; said sum to be expended under the direction and on warrant of the director of the department of archives and history.

Feb. 22,
1907, p.
63, § 10.

809. Appointment of stenographer.—The director of the department of archives and history may appoint a stenographer, who may be removed at his pleasure, who shall receive a salary of seven hundred and fifty dollars, payable monthly, as the salaries of other officers are paid.

Aug. 6,
1907, p.
580, § 1.

810. Publication of state papers, official records, and of historical materials.—The director of the department of archives and history, having compiled or caused to be compiled several volumes of important data and materials for the history of the state, including a full collection of the messages of the governors of Alabama, a collection of all the laws creating counties, altering county boundaries, or fixing or changing county seats, an Alabama local history collection, a series of narrative histories or historical sketches of Alabama commands in the war of secession, besides other important and valuable collections, as well as many valuable manuscripts, such director may contract for the printing and binding of the said volumes, or of any others of like character which he may cause to be compiled, and the state auditor is authorized and directed to pay for said printing and binding out of the public printing fund, on the certificate and order of the said director.

CROSS REFERENCES.

HISTORY AND ARCHIVES (Political Code)	793-810
HOGS (Criminal Code)	6962
HOLIDAYS (Civil Code)	5144
HOME FOR CONFEDERATE SOLDIERS (Political Code)	2038-2053
HOMESTEAD (Civil Code)	4160-4237
HOMICIDE (Criminal Code)	7084-7093
HORSE-RACING; GAMING AS TO (Criminal Code).....	7002-7005, 7728
HORSES (Criminal Code)	6237, 6239

HOSPITALS (Political Code)838-878, 734
 HOSPITALS FOR INSANE (Political Code)838- 878
 HOSPITALS, MUNICIPAL (Political Code) 1277

CHAPTER 24.

HORTICULTURE. 811-826.

SECTION.

- 811. State board of horticulture; how formed.
- 812. State horticulturist.
- 813. Expense defrayed.
- 814. Treatment of infested trees or plants.
- 815. Cost of treatment by owner.
- 816. Proceedings in case orders of state horticulturist are disobeyed.
- 817. Authority to enter premises.
- 818. Preventing introduction of pests.
- 819. Issuance of bulletins.

SECTION.

- 820. Certificates for nursery stock necessary.
- 821. Requirements as to foreign nurseries and dealers.
- 822. Liability of common carriers.
- 823. When common carrier not liable for damages.
- 824. Quarterly report.
- 825. What commissioner of agriculture and industries must do when informed of disease among trees.
- 826. Commissioner requires owner of diseased trees to destroy them.

811. State board of horticulture; how formed.—The commissioner of agriculture and industries, the president of the Alabama State Horticultural Society, and the director of the experiment station of the Alabama Polytechnic Institute shall constitute a board to be known as the state board of horticulture, of which the commissioner of agriculture and industries shall be chairman, which board shall have full power to enact such rules and regulations governing the examination, certification, sale, transportation, and introduction of trees, shrubs, cuttings, buds, vines, bulbs, and roots, that they may deem necessary to prevent the further introduction, increase, and dissemination of insect pests and plant diseases.

Mar. 5,
1903, p.
140, § 1.

812. State horticulturist.—The professor of horticulture of the Alabama Polytechnic Institute shall be the state horticulturist and secretary of said board of horticulture. The board shall promulgate rules and regulations in accordance with this chapter for the government of the state horticulturist in the duties devolving upon him in the execution of the provisions of this chapter.

ib., § 2.
(r.c.c.)

813. Expense defrayed.—There is hereby annually appropriated the sum of fifteen hundred dollars to be disbursed under the direction of the board of trustees of the Alabama

ib., § 3.

Polytechnic Institute for the purpose of defraying the expenses in the execution of the provisions of this chapter.

Mar. 5,
1908, p.
140, § 4.

814. Treatment of infested trees or plants.—The state horticulturist or a deputy duly authorized by the board of horticulture shall, under the regulations of the board of horticulture, visit any section of the state where such pests are supposed to exist, and determine whether any infested trees or plants are worthy of remedial treatment or shall be destroyed, and shall immediately report his findings in writing, giving reasons therefor, to the owner of the infested plantation, his agents or tenants, and a copy of each report shall also be submitted to the said board. In case of objections to the findings of the state horticulturist or his deputy, an appeal shall be made to the said board, who shall have the power to summon witnesses and hear testimony on oath, and whose decision shall be final. An appeal may be taken within ten days, and shall act as a stay of proceedings until it is heard and decided.

Ib., § 5.

815. Cost of treatment by owner.—Upon the findings of the state horticulturist or his deputy in any case of infested trees or plants, the treatment prescribed by him shall be executed at once (unless an appeal is taken), under his supervision, the cost of labor and material shall be borne by the owner; provided; however, that in case the trees or plants shall be condemned they shall be destroyed by the state horticulturist, and the expense of such action shall be borne by the owner. No compensation shall be allowed for any plants that shall be destroyed.

Ib., § 6.

816. Proceedings in case orders of state horticulturist are disobeyed.—In case any person or persons refuse to execute the direction of the state horticulturist or of the said board, upon an appeal, a justice of the peace or probate judge of the county shall, upon complaint filed by the state horticulturist, or any freeholder, cite the person or persons to appear before him within ten days after notice has been served, and the said judge upon satisfactory evidence shall cause the prescribed treatment to be executed, and the expense thereof and cost of court shall be collected from the owner or owners of infested plants.

Ib., § 8.

817. Authority to enter premises.—The board of horticulture, its agents or employes, may enter upon any premises in discharge of the duties prescribed in this chapter.

Ib., § 9.

818. Preventing introduction of pests.—The board of horticulture shall adopt rules and regulations, not inconsistent with the laws and constitution of this state and the United States, for preventing the introduction of dangerously injuri-

ous crop pests of all kinds from without the state, or regarding the dissemination of crop pests within the state, and for the governing of common carriers in transporting plants liable to harbor such pests to and from and within the state, and such regulations shall have the force of laws.

819. Issuance of bulletins.—The members of said board, any two of whom shall constitute a quorum, shall from time to time draw up and promulgate, through the press of the state, the rules and regulations necessary to carry into full and complete effect the provisions of this chapter, carefully defining what diseases or maladies, both insect and fungus, shall constitute infestation in trees and plants within the meaning and purview thereof. Mar. 5,
1903, p.
140, § 10.

820. Certificate for nursery stock necessary.—A copy of the certificate of guarantee of the state horticulturist must accompany each box or package sold, given away, or shipped. Such certificate must be dated within twelve months. If upon examination such stock is found to conform to the requirements of the board of horticulture, the state horticulturist must furnish a certificate to that effect. Ib., § 11.

821. Requirements as to foreign nurseries and dealers.— Ib., § 12.
Each and every person, firm, or corporation residing and doing business outside of the state, dealing in or handling trees or shrubs or other plants commonly known as nursery stock, shall file a copy of his or its certificate of his or its inspection furnished by the state horticulturist, nursery inspector, or other duly authorized officer of his or its state or county with the secretary of the board of horticulture. Upon the filing of this certificate as above prescribed, and upon request of the person, firm, or corporation, a certificate will be issued to the same, and official tags bearing copy of such certificate and seal of the board will be furnished the same at cost; provided, however, that the aforesaid certificate of inspection shall be adjudged satisfactory by the board. Each box, bundle, or package of nursery stock shipped into Alabama by any person, firm, or corporation shall bear one of these tags, and shipments of stock not thus tagged shall be liable to confiscation by the board of horticulture through its agents or employes.

822. Liability of common carriers.—No transportation company or common carrier shall deliver any box, bundle, or package of trees, shrubs, or other plants, commonly known as nursery stock, to any consignee residing within the State of Alabama, when said box, bundle, or package does not bear the official tag or certificate of guarantee issued by the state horticulturist, without previously notifying the state horti- Ib., § 13.

culturist of the particulars of the shipment, as they may be required by the board, nor without duly warning the consignee of his risk in accepting said shipment.

Mar. 5,
1908, p.
140, § 13.

823. When common carrier not liable for damages.—No common carrier shall be liable for damages to the consignee or consignor for refusing to receive, transport, or deliver such trees, packages, or boxes, when not accompanied by the tag or certificate as provided in the preceding section.

Ib., § 15.

824. Quarterly report.—The state horticulturist shall make a quarterly report of his work and of the expenditures under this article to the board of horticulture, and the board shall report annually to the governor of the state.

Feb. 16,
1897, p.
1141, § 1.

825. What commissioner of agriculture and industries must do when informed of disease among trees.—Upon complaint being made to the commissioner of agriculture and industries that in any county or section of the state there exists or is believed to exist any disease among any apple, peach, pear, or other fruit trees, which is likely to permanently injure or destroy the orchards or fruit crops in said county or section, said commissioner shall cause a sample of such diseased tree to be sent to him or to some of the agricultural experiment stations located in this state, where he shall cause the same to be thoroughly examined and analyzed and a written report furnished to him regarding the same.

Ib., § 2.

826. Commissioner requires owner of diseased trees to destroy them.—The commissioner of agriculture and industries shall require the owner of any tree which is shown by the written report from any of the agricultural experiment stations to be infected with any blight or disease calculated to permanently injure or destroy the orchards or fruit crops in any county or section of this state, to destroy and burn any and all trees so infected; provided, however, the owner of such trees shall first be permitted to show said commissioner, if he can, that such disease does not in fact exist, or is not dangerous to the orchards or fruit crops in his section.

CROSS REFERENCES.

HORTICULTURE (Political Code)	811- 826
HORTICULTURE, OFFENSES CONCERNING (Criminal Code)	6223-6228
HOTELS AND INKEEPERS (Criminal Code)	7094
“ (Civil Code)	4537-4542
HOTEL KEEPERS; LIEN (Civil Code).....	4827, 4828
HOUSE OF REPRESENTATIVES (Political Code)	900
HOUSE OF ILL FAME (Political Code)	1294
“ (Criminal Code)	7843, 7619

HUNTING (Civil Code) 4485
 " (Criminal Code) 6954-6982
HUSBAND AND WIFE (Civil Code) 4486-4504
IDIOTS (Civil Code) 4345-4361
ILLEGAL CONTRACTS (Civil Code) 3334-3353
ILLEGITIMATE CHILDREN (Criminal Code) 6364-6388
ILL FAME, HOUSES OF (Political Code) 1294
ILLUMINATING OIL (Political Code) 1572-1580, 2361
IMBECILES (Civil Code) 4345-4361
IMMIGRANTS (Criminal Code) 6854, 6855

CHAPTER 25.

IMMIGRATION. 827-837.

SECTION.

- 827. Immigration board established.
- 828. Commissioner; appointment and term of office.
- 829. Salary of commissioner.
- 830. Bond of commissioner.
- 831. Duties of commissioner.
- 832. Information to be furnished immigration commissioner.

SECTION.

- 833. Duties of immigration board.
- 834. Class and character of immigrants sought.
- 835. Appropriations.
- 836. Commissioner under control of board.
- 837. Report of commissioner to governor.

827. Immigration board established.—The immigration board for the State of Alabama shall consist of the governor, who shall be chairman of the board, and commissioner of agriculture and industries, and one immigration commissioner. Mar. 4, 1907, p. 264, § 1.

828. Commissioner; appointment and term of office.—The immigration commissioner shall be appointed by the governor and shall hold office for four years, unless sooner removed by the governor. ib., § 2.

829. Salary of commissioner.—The commissioner shall receive for his compensation twenty-four hundred dollars per annum, payable monthly in the same manner as other state officers are paid. ib.

830. Bond of commissioner.—The commissioner shall enter into a good and sufficient bond in the sum of five thousand dollars, payable to the State of Alabama, for the faithful performance of his duty. ib.

831. Duties of commissioner—

1. The immigration commissioner shall from time to time cause the publication of circulars of information and hand-books on the resources of the state, and shall have charge of all work looking to the promotion of immigration in English and such foreign languages as the immigration board may ib., §§ 3, 4 and 6.

designate, in regard to localities, climate, resources, and advantages which the State of Alabama has to offer to every good class of immigration, and more specifically to the inducement of capital and desirable immigration by the dissemination of information relative to the advantages of soil and climate, and to the natural resources and industrial opportunities offered in this state.

2. He shall also collect from the farmers and landowners of the state and list information as to the land, stating the number of acres, location, the terms upon which they may be bought, leased, or shared to desirable settlers.

3. He shall keep a land registry and in connection therewith, from time to time, publication shall be made descriptive of such listed agricultural, mineral, forest, and trucking lands and factory sites as may be offered to the department for sale or share, which publication shall be in attractive form, setting forth the county, township, number of acres, names and addresses of owners, and such other information as may be helpful in placing homeseekers in communication with landowners. All expenses incurred in subdivisions 2 and 3 of this section shall be paid by the persons whose land or property is so advertised.

4. The commissioner shall collect in the form of a handbook of the state, to be issued when practicable, information showing the nature and industrial resources and advantages of the State of Alabama, dealing with soil, climate, raw and manufactured products, agricultural and horticultural products, textile fabrics, manufacturing industries, mines and mining, native woods, means of transportation, cost of living, the market, and all material and social advantages for those seeking homes and investment in agricultural or manufacturing industries.

Mar. 4,
1907, p.
254, § 6.

832. Information to be furnished immigration commissioner.—In order to facilitate the collection and collation of exact information about the resources of the state on all lines, the heads of the several departments of the state and county governments and of the state institutions shall furnish as far as practicable such information as may be at their command to the immigration commissioner when called upon for the same.

Ib., §§ 5
and 7.

833. Duties of immigration board.—The immigration board may make such arrangements with any corporation, firm, association, or individual as may desire to co-operate in any way with the board as may best serve the interests of successful immigration into the State of Alabama, and may send an agent to any part of the United States or foreign country for

the purpose of inducing immigration into Alabama, and make such arrangements with railroads and oceanic steamers as may be necessary to carry out the provisions of this chapter; provided such corporations, firms, associations, or individuals so co-operating with the board shall pay the expenses in carrying out the provisions as herein set forth in this section. The immigration board shall use lawful means to prevent the induction into this state of immigrants of an undesirable class, and to this end shall investigate the conditions of the applicants for admission through the department, so as to discourage the coming in of persons of an anarchistic tendency, of paupers, of persons suffering from contagious or communicative diseases, of cripples without means and unable to perform mental or physical service, of idiots, lunatics, persons of bad character, or of any persons who are likely to become a charge upon the charity of the state, and all such as will not make good and law-abiding citizens.

834. Class and character of immigrants sought.—Immigrants shall be sought from desirable white citizens of the United States first, and then citizens of English speaking and Germanic countries, France and the Scandinavian countries, and Belgium, as prospective citizens of this state, and conformable with the laws of the United States. Mar. 4, 1907, p. 254, § 8.

835. Appropriations.—For the purpose of carrying out the provisions of this chapter, so far as it relates to the encouragement of immigration to this state, traveling expenses of the immigration commissioner, when necessary and acting under the directions of the immigration board, there shall be appropriated out of the general funds the sum of five thousand dollars annually, or so much thereof as may be necessary. Ib., § 10.

836. Commissioner under control of board.—The immigration commissioner shall be under the supervision and control of the immigration board and shall not bring or cause to be brought into the state any immigrants, nor make any contract under section 831 of this chapter, without the consent and approval of said board. Ib., § 11.

837. Report of commissioner to governor.—The immigration commissioner shall make and submit to the governor on or before the tenth day of January of each year, a report covering the department's work of the preceding year, and such report shall be printed and treated in the same manner as other public documents, or as shall otherwise be ordered. Ib., § 12.

CROSS REFERENCES.

IMMIGRATION (Political Code)	827- 837
" (Criminal Code)	7098
IMPEACHMENT OF OFFICERS (Criminal Code)	7099-7126
IMPEACHMENT OF MUNICIPAL OFFICERS (Political Code) ...	1172-1191
IMPOUNDING ANIMALS (Criminal Code)	7337
IMPRISONMENT FOR CONTEMPT (Civil Code)	4630
IMPRISONMENT IN COUNTY JAIL (Criminal Code)	7191-7211
IMPRISONMENT OF CONVICTS (Criminal Code)	6479-6607
IMPROVEMENTS, PUBLIC, MUNICIPAL (Political Code)	1359-1420
INCEDEIARY (Criminal Code)	6295-6300
INCEST AND MARRIAGES; WHEN UNLAWFUL (Civil Code).....	4877
" (Criminal Code)	7127, 7128
INCORPORATION OF MUNICIPALITIES (Political Code)	1053-1069
INCORPORATIONS (Civil Code)	3445-3661
INDEBTEDNESS, BONDED; OF MUNICIPALITIES (Political Code)	1436-1438
INDEMNITY FUND (Civil Code)	4563
INDEXES	See 5421, 3081, 3272
" CONSTITUTION UNITED STATES (Political Code)	174- 216
" CONSTITUTION ALABAMA (Criminal Code)	
INDICTMENTS (Criminal Code)	7129-7161
INDUSTRIAL SCHOOL FOR GIRLS (Political Code)	1912-1932
INDUSTRIES AND AGRICULTURE (Political Code)	14- 79
INEBRIATES, ESTATES OF (Civil Code)	4611-4618
INFANCY, PLEA OF (Civil Code)	5383
INFANTS (Civil Code)	4505-4511, 2476, 5383
INFORMATIONS (Criminal Code)	7129-7161
INJUNCTIONS (Civil Code)	4512-4536
INNKEEPERS (Civil Code)	4537-4542
INQUESTS (Political Code)	104
" (Criminal Code)	7162-7174a
INQUISITION AS TO INSANITY (Civil Code)	4347
" (Criminal Code)	7178-7183

CHAPTER 26.

INSANE HOSPITALS. 838-882.

ARTICLE 1. INSANE HOSPITALS. 838-878.

ARTICLE 2. SWAMP AND OVERFLOWED LANDS. 879-882.

ARTICLE 1.

INSANE HOSPITALS. 838-878.

SECTION.

- 838. The Bryce Hospital and the Mount Vernon Hospital named and set apart to the insane.
- 839. The Alabama Insane Hospital a body corporate; powers of; when and how sued.
- 840. Trustees named and terms of office fixed.
- 841. Trustees, successors, vacancy in office, how filled.
- 842. Trustees, compensation of.
- 843. Trustees, election confirmed by senate.
- 844. Trustees, time and place of annual meeting; report to governor.
- 845. Trustees elect president and adopt rules for government.
- 846. Trustees; special or call meeting of.
- 847. Superintendent; election and salary of; term of office.
- 848. Superintendent appoints assistants and employes for institution.
- 849. Salaries of assistants or employes; how fixed.
- 850. Steward; appointment and duties of.
- 851. Treasurer; election and duties of.
- 852. Furlough of patients granted.
- 853. Institution used solely for insane patients.
- 854. Insanity defined, which renders person eligible as patient.
- 855. Superintendent; when may decline to receive or exchange patients.
- 856. Certificate of probate judge committing patient necessary.
- 857. Application to and of probate judge for admission of patient; contents of.
- 858. Reply to application for admission.

SECTION.

- 859. Certificate of probate judge for admission of patient; form and contents of.
- 860. Conveying patient to hospital.
- 861. Expenses of patient, when paid by himself and when paid by the state.
- 862. Bonds for payment of expenses of patient; form and contents of.
- 863. Financial standing of patients, how determined.
- 864. New bond; expenses of patient.
- 865. Indigent and paying patients; transfer of.
- 866. Funds of patients, how expended by superintendent.
- 867. Return of patients home; expenses of same.
- 868. Patients, when removed on furlough.
- 869. Probate judge of Tuscaloosa county may issue certificate in certain cases.
- 870. Justice of the peace, when may issue certificates to patients at Mount Vernon.
- 871. Convicts, when insane; how committed.
- 872. Criminals; when and how committed to hospital.
- 873. Insane convicts; report of recovery.
- 874. Officers and employes of hospital exempt from military, public road, and jury duty.
- 875. Superintendent and physicians exempt from attending court as witnesses.
- 876. Police; appointment and duties of, for insane hospital.
- 877. Public roads or highways established through land.
- 878. Appropriation for institution.

838. The Bryce Hospital and the Mount Vernon Hospital named and set apart to the insane.—The institution for the

Dec. 11,
1900, p.
64, § 1.

care and treatment of the insane persons, already located in the county of Tuscaloosa, heretofore known as the Alabama Bryce Insane Hospital, shall be styled "The Bryce Hospital," and the property known as the Mount Vernon Barracks Military Reservation, situated in the county of Mobile, together with all the buildings and improvements thereon, granted to the State of Alabama by an act of congress of the United States, approved March 1, 1895, and conveyed to the State of Alabama by a deed executed by Daniel S. Lamont, secretary of war, dated March 13, 1895, "to be held and used for public purposes," is hereby set apart for the use of the insane of the state, under the name of "The Mount Vernon Hospital."

Dec. 11,
1900, p.
64, § 2.
(r.c.c.)

839. (2544) The Alabama Insane Hospital a body corporate; powers of; when and how sued.—The board of seven trustees, now in control of the Alabama Bryce Insane Hospital at Tuscaloosa, shall have possession, control, and management of "The Bryce Hospital" at Tuscaloosa, and of "The Mount Vernon Hospital," at Mount Vernon, and of such other property as shall from time to time be placed under their care by the legislature of Alabama, or otherwise; and said board of trustees and their successors in office are constituted a body corporate under the name of "The Alabama Insane Hospitals," and by that name may sue; may contract and be bound; may have, possess, and enjoy real and personal property and have perpetual succession; and may have and use a common seal and break or alter the same at pleasure; and have all the powers incident to corporations of such nature; and all contracts or obligations now existing, in which the Alabama Bryce Insane Hospital is interested shall continue under the new corporation.

(Feb. 9, 1893, p. 344, § 1.) The hospital is a mere agency of the state in the administration of governmental affairs, and is not liable under the employers' liability act or the homicide act for the negligence of its servants or agents.—*White v. Ala. Insane Hos.*, 138 Ala. 479 (35 So. 454).

Ib., § 8.

840. (2545) Trustees named and terms of office fixed.—The length of the terms of office of the members of said board of trustees is changed from six to seven years, and the present arrangements, by which the terms of certain members expire differently after periods of two years, is changed so that the term of one trustee shall expire every year on the 30th day of September. The terms of the seven trustees who constitute the present board are hereby arranged so that the term of J. B. Gaston, of Montgomery, shall expire on the 30th day of September, 1901; that of S. W. John, of Birmingham, on the 30th day of September, 1902; that of W. G. Somerville, of Tuscaloosa, on the 30th day of September, 1903; that of R. T.

Simpson, of Florence, on the 30th day of September, 1904; that of J. M. Foster, of Tuscaloosa, on the 30th day of September, 1905; that of J. L. Williamson, of Tuscaloosa, on the 30th day of September, 1906; and that of E. M. Robinson, of Mobile, on the 30th day of September, 1907.

(Feb. 9, 1893, p. 344, § 2.)

841. (2545) Trustees; successors; vacancy in office; how filled.—As the terms of the different trustees expire, the board of trustees shall elect persons to fill the vacancies, whose terms shall be seven years each, to date from the expiration of the preceding term; and when the office of any trustee is vacated by death, resignation, removal from the state, or otherwise, the board shall elect a person to fill the vacancy for the unexpired remainder of the term. In filling the vacancies as they occur hereafter, the board shall so arrange their elections that at least four of the board shall be practitioners of medicine; and so that three of the board shall reside near the hospital at Tuscaloosa, and two convenient to the hospital at Mount Vernon, who shall constitute respectively resident committees, to manage between the meetings of the board such affairs of the respective hospitals as are committed to them by this article and by the board. The other two members of the board shall be elected from other parts of the state.

Dec. 11,
1900, p.
64, §§ 4
and 5.

842. (2545) Trustees; compensation of.—The trustees shall receive no compensation for their services other than the amounts of their traveling expenses actually paid out while attending the meetings of the board, or while on other business of the hospitals, to which they have been appointed by the board.

Ib., § 6.

843. Trustees; election confirmed by senate.—The senate of the State of Alabama shall at each session confirm or disaffirm the election of such trustees of "The Alabama Insane Hospitals" as have been chosen since the last session of the legislature, and in case of the disaffirmance of the election of any trustee, the senate shall declare his office vacant and elect a person to fill the place for the balance of the unexpired term. The printed report of the board of trustees to the governor, hereinafter mentioned, shall contain a list of the members of the board, and their residences; and the governor shall submit to the senate for their consideration the names of such trustees as have been elected since the preceding meeting of the senate as above provided.

Ib., § 17.

844. (2546) Trustees; time and place of annual meeting; report to governor.—The board of trustees shall determine the time when the fiscal year of the hospitals shall end, and,

Ib., § 8.

as near after that time as practicable, they shall hold an annual meeting at the hospital at Tuscaloosa, which meeting shall embrace at least two days, when the board shall review and investigate the affairs of the hospitals, and shall prepare and transmit to the governor a full report of the wants, interests, condition, receipts, and expenditures of the hospitals for the preceding fiscal year. On the year when the session of the legislature is held, the board of trustees shall make their report to the governor to cover the preceding fiscal years intervening between the sessions, and the governor shall have printed at the expense of the state a sufficient number of copies of this report of the trustees to distribute among the members of the legislature, and to send one thousand copies to the hospital at Tuscaloosa, to be distributed as the superintendent directs.

(Feb. 9, 1893, p. 344, § 2.)

Dec. 11,
1900, p.
64, § 9.

845. (2546) Trustees elect president and adopt rules for government.—The board of trustees shall elect a president and other officers, and adopt rules for their own government and for the government of the resident committees. They shall cause to be prepared a book of rules, or service manual, for the government and instruction of the employes of the hospitals.

Ib., § 10.

846. Trustees; special or call meeting of.—The board of trustees shall hold such meetings at either hospital, or other place in the state, as the interests of the institutions demand. Four members shall constitute a quorum for business. The president, or any three members, can call a meeting at any time or place; provided, the call is issued to all the members of the board at least two weeks in advance of the meeting, and object of the meeting is set forth in the call.

Ib., § 11.

847. (2548) Superintendent; election and salary of; term of office.—For the immediate government and control of the said hospitals, the board of trustees shall elect a superintendent and determine his salary; who in all his duties shall be the executive officer of the board, and be held strictly accountable to them. The superintendent shall be a physician of good business habits, of a humane disposition, a graduate in medicine, and a man of good moral character. He shall be elected for a term of not less than eight years, and when his term has expired, shall continue in office until his successor is appointed and qualified. The superintendent may be removed from office by the board of trustees for just cause, fully declared and set forth in their proceedings.

Ib., § 12.

848. (2548) Superintendent appoints assistants and employes for institutions.—The superintendent shall appoint all

the assistant physicians, stewards, managers, supervisors, nurses, and other employes who serve under him in hospitals; he shall have the power to remove any one of them from the employ of the hospitals at his discretion.

849. (2548) Salaries of assistants or employes; how fixed. Dec. 11, 1900, p. 64, § 12.

—With the concurrence of the respective resident committees, the superintendent shall determine all the salaries, wages, and other compensations to be paid said officers and employes, but said salaries, wages, and compensations shall be subject to the approval or disapproval of the board of trustees at any regular meeting; and in case of disapproval, the board of trustees shall determine what salary, wages, or compensation shall be paid.

850. Steward; appointment and duties of.—The superintendent Ib., § 18. shall appoint a steward, who, under his direction, shall attend to all the immediate financial matters of the hospitals; shall make purchases and sales; and shall keep an account of the receipts and expenditures; he shall give bond for the faithful performance of his duties in an amount to be determined by the board, which bond shall be approved by the resident committee at Tuscaloosa. He shall make drafts upon the treasurer of the hospital when approved by the superintendent for current expenses; and shall attend to any other duties assigned by the superintendent.

851. (2547) Treasurer; election and duties of.—The board Ib., § 14. of trustees shall elect a suitable person, not a trustee, as treasurer of "The Alabama Insane Hospitals," who shall reside in Tuscaloosa, whose term of office and salary shall be determined by the board, and who shall give a good and sufficient bond, the amount of which shall be determined by the board, and shall be approved by the resident committee at Tuscaloosa. He shall pay the drafts made upon him by the steward, when approved by the superintendent, and at the proper time shall make drafts upon the treasurer of the state for the amounts due "The Alabama Insane Hospitals," which drafts shall be countersigned by the superintendent. He may be removed from office at any time by the board of trustees; and his books and accounts shall be always open to the inspection of any of the trustees.

(Feb. 9, 1893, p. 344, § 2.)

852. (2548) Furlough of patients granted.—Access to the Ib., § 15. wards or other departments of the hospitals or to the books or records shall be granted to any of the trustees at any time; and the resident committees of the trustees have the authority to discharge or furlough any patient at any time.

Dec. 11,
1900, p.
64, § 16.

853. (2549) Institutions used solely for insane patients.—The insane hospitals shall be maintained and used solely for the care, treatment, and custody of insane patients; no other class of patients shall be admitted.

(Feb. 9, 1893, p. 344, § 4.)

Ib., § 17.

854. (2549) Insanity defined, which renders person eligible as patient.—A person shall be adjudged fit to be sent as a patient to an insane hospital who, in the opinion of the court authorized to hold the inquisition in the case, is mentally so deficient, defective, and disqualified that he (or she) needs the restraint, management, and medical treatment of such an institution, for his (or her) safe-keeping and improvement. Particularly shall the person be adjudged a fit patient for the insane hospital if it appear that his (or her) mental aberrancy renders him (or her) seriously troublesome, offensive, or dangerous to others, or a menace to his (or her) own safety or welfare. Simple, harmless, incurable dements, dotards, imbeciles, or idiots are not fit patients for the insane hospitals.

Ib., § 18.

855. (2550) Superintendent; when may decline to receive or exchange patients.—When the wards of white men or women, or the wards of negro men or women become crowded, as the case may be, the superintendent has the authority to decline to receive patients for those wards. The superintendent, however, in order to make room, is authorized to arrange with the judges of probate for the exchange of harmless, incurable patients, who can be cared for in their homes or by the counties, for those who are urgent, curable, or dangerous.

(Feb. 9, 1893, p. 344, § 5.)

Ib., § 19.

856. Certificate of probate judge committing patient necessary.—No person shall be received into an insane hospital as a patient without the proper hereinafter described certificate of mental disqualification from the judge of probate of the county in which he (or she) resides, committing him (or her) to the hospital.

Ib., § 20.

857. (2551) Application to and of probate judge for admission of patient; contents of.—When a relative, friend, or other person interested desires to place a person as a patient in the insane hospital, he shall apply to the judge of probate of the county in which the person resides, and the judge of probate, without delay, shall investigate the case by examining witnesses or not, as he sees fit, and if he is reasonably convinced that the case is a suitable one, he shall make application to the superintendent at Tuscaloosa for his (or her) admission, and shall accompany his application with as full and explicit

answers as possible to the following interrogatories describing the case, giving an answer to every question:

(1) What is the person's full name? Postoffice? Weight? Age? Sex? Occupation? Single or married? Color? Where born? Names of correspondents?

(2) Has the person been since childhood mentally deficient? Or eccentric?

(3) Is the person subject to unconscious spells? Or epileptic fits?

(4) Can his (or her) present defective mental condition be attributable to the injurious use of alcoholic drinks? Or opiates? Or tobacco? Or other drug?

(5) Did the present insane condition begin suddenly? Or gradually? And how long has it lasted?

(6) Has the person ever been insane before? How long each time?

(7) Has the person, because of mental defectiveness, ever been confined in a poorhouse? Or jail? Where was he (or she) ever in an insane hospital as a patient? And when?

(8) Is the person easily managed at home? And what means of restraint have been used?

(9) In what way does the person's insanity now exhibit itself? And what delusions does he (or she) hold?

(10) In what way is the person troublesome? Or dangerous? In what way is he (or she) indecent or uncleanly? How has he (or she) attempted self-injury? Or to injure others? How has he (or she) attempted to destroy property? How well does he (or she) attend to ordinary work? Or business?

(11) What is the alleged cause of his (or her) insanity?

(12) What near relatives of the person have been insane on the father's side? On mother's side? Brothers of the patient insane? Sisters? Names of relatives in an Alabama insane hospital?

(13) Is the person deaf? Dumb? Blind? Lame? Maimed in any way? Paralyzed? How much is he (or she) confined to bed? How is he (or she) sick or diseased otherwise than being insane?

(14) Will the person be an indigent or a paying patient?

(Feb. 9, 1893, p. 344, § 6.)

858. (2552) Reply to application for admission.—On receipt of the application of the judge of probate and the answers to the foregoing interrogatories describing the case, the superintendent shall promptly forward a reply, stating whether there is room in the hospital for that class of a patient, and to which hospital he (or she) shall be sent.

Dec. 11,
1900, p.
64, § 21.

(Feb. 9, 1893, p. 344, § 7.)

Dec. 11,
1900, p.
64, § 22.

859. (2553) Certificate of probate judge for admission of patient; form and contents of.—When informed by the superintendent that the person can be received as a patient, the judge of probate shall examine witnesses, at least one of whom shall be a physician, and fully investigate the facts of the case, either with or without a jury, and either with or without the presence in court of the person, the grade of whose mental disqualification is under investigation, according to his discretion; and if the judge, or the jury, as the case may be, believe that the person is sufficiently defective mentally to be sent as a patient to a hospital for insane persons, the judge of probate shall make two copies of a certificate of mental disqualification, one copy of which shall be filed in his office and the other he shall send with the patient to the hospital; which certificate shall read substantially as follows:

I (A. B.), judge of probate of the county of _____, and the State of Alabama, do hereby certify that it having been alleged to me that (C. D.), a resident of this county, is insane, and that his (or her) own and the public welfare demand that he (or she) be sent to the hospital for insane persons for custody and treatment, pursuant to the statutory provisions in such cases, I have called before me the following credible witnesses (giving their names), and Dr. _____, a reputable physician, practicing medicine in the state, and having examined them under oath, and otherwise fully investigated the facts of the case, with the said (C. D.) present in court (or not, as the case may be), I do hereby certify that sufficient proof has been adduced before me (or the jury) to satisfactorily show that the said (C. D.) is so defective mentally that he (or she) ought to be committed to the hospital for insane persons for safe-keeping and treatment.

I further certify that satisfactory proof has been adduced before me (or the jury) that said (C. D.) has (or has not) sufficient means to pay his (or her) expenses in the hospital.

I therefore issue this certificate of mental disqualification and commit him (or her) to the _____ hospital at _____, according to instructions received from the superintendent, as indigent (or paying) patient.

Given under my hand at _____, in the county and state aforesaid, this _____ day of _____, in the year _____.

(A. B.), Judge of Probate.

(Feb. 9, 1893, p. 344, § 8.)

Ib., § 23.

860. (2553) Conveying patient to hospital.—The judge of probate shall depute one or more persons, relatives, friends, or officers, as he may see fit, to convey the patient to the hospital, and all necessary expenses incurred in conveying an

indigent patient to the hospital shall be paid out of the county treasury on order from the county commissioners.

861. (2554) Expenses of patient; when paid by himself and when by state.—At the same time that the judge or the jury investigate the degree of mental defectiveness of the person, if adjudged insane, the judge (or jury) shall also examine witnesses under oath as to his (or her) financial standing, and if he (or she) has not sufficient means to pay for his (or her) support in the hospital, the judge shall so state in the certificate, and the expenses of the patient shall be paid by the state in the manner hereinafter described.

Dec. 11,
1900, p.
64, § 24.

(Feb. 9, 1893, p. 344, § 9.) The insane hospital is a mere agency of the state.—State v. Sowell, 143 Ala. 494 (39 So. 246).

862. (2556) Bonds for payment of expenses of patient; form and contents of.—If, however, it appear that the patient in his (or her) own name has the means, or, if a minor, that his (or her) guardian or parents have the means; or if his (or her) relatives or friends agree to provide the means for his (or her) support in the hospital, the judge of probate shall state in the certificate that he (or she) will be a paying patient and the judge of probate shall contract with responsible parties for the payment quarterly in advance of the amount, charged under the direction of the board of trustees, for such patients, and to that effect shall cause a bond with sufficient surety to be made, which bond shall be approved by the judge of probate. One copy of said bond shall be filed in the office of the probate judge, and another sent with the patient to the hospital, and shall read substantially as follows:

Ib., § 25.

Know all men by these presents, that we, _____ and _____, of the county of _____, in the State of Alabama, are firmly held and bound unto the trustees of the insane hospitals of Alabama in the penal sum of three hundred dollars for the payment of which we hereunto bind ourselves jointly and severally. Sealed with our seals and dated this _____ day of _____, A. D. 190—.

The conditions of the above obligation are as follows:

Whereas (C. D.), of the county of _____, in the State of Alabama, is about to be admitted as a paying patient into the _____ hospital at _____, Alabama, now if while he (or she) shall remain therein, the undersigned shall constantly supply him with suitable clothing and pay all charges of said hospital against him quarterly in advance; and whenever his removal shall be required, immediately remove him; and if he shall escape from said hospital, pay all reasonable charges incurred in returning him; and if he die therein, pay all reasonable expenses incurred for his funeral; and in case of failure to

perform promptly any of the above conditions, pay all expenses that accrue to said hospital by litigation, collector's fees, or otherwise, then this obligation shall be void; otherwise it shall remain in full force.

Witness our hands and seals, this — day of —, A. D. 190—.

(E. F.) (Seal.)

(G. G.) (Seal.)

I hereby certify that in my opinion the obligors in the above bond have executed the same in good faith, and that the amount of the penalty specified therein can be recovered from them by due process of law. In witness whereof, I have hereunto set my hand, at —, this — day of —, A. D. 190—.

(A. B.)

Judge of probate of — county and State of Alabama.

(Feb. 9, 1893, p. 344, § 9.) Signers jointly and severally liable.—*Enslin v. Ala. Ins. Hospital*, 113 Ala. 658 (21 So. 74).

Dec. 11,
1900, p.
64, § 28.

863. (2558) Financial standing of patients; how determined.—The judge of probate of each county in the state, from time to time, at his own instance and at any time, if his attention is drawn to it by the superintendent or other party, shall investigate the financial standing of any indigent patient in the hospital from the county, and if he find him (or her) able to pay for his (or her) support in the insane hospital, under penalty of the superintendent's returning said patient at the county's expense to his (or her) home or friends, he shall contract with responsible parties under the forms already specified for the support of the patient.

Ib., § 27.

864. (2558) New bond; expenses of patient.—A judge of probate, upon having his attention drawn to it by any party interested, under the penalty of having the patient returned to his (or her) home at the county's expense, shall investigate and cause a new bond to be executed, if the present one securing the support of a paying patient from his county has become insufficient.

Ib., § 28.

865. (2557) Indigent and paying patients; transfer of.—A judge of probate can transfer a paying patient who has become indigent to the indigent class; he shall, however, notify the superintendent at once, and shall not discharge the bondsmen until after he has learned from the superintendent that all their obligations with the hospital have been satisfied to the end of the current quarter.

(Feb. 9, 1893, p. 344, § 10.)

Ib., § 29.

866. Funds of patients; how expended by superintendent.—The superintendent is authorized to expend, in the way re-

quested, any funds he may receive from any source for extra attention, nursing, board, clothing, or delicacies, etc., for an indigent or paying patient, provided in his opinion it does not interfere with the good of the patient, the discipline of the hospital, or the welfare of the other patients.

867. (2561) Return of patients home; expenses of same.—Dec., 11, 1900, p. 64, § 80. When a patient has been restored to a normal or comparatively safe and good mental condition sufficiently long to warrant the opinion on the part of the superintendent that he (or she) ought to be returned to his (or her) home, or set at large again, the superintendent shall inform the friends or relatives of the patient's recovery, and if they do not furnish the money to pay the traveling expenses, he shall notify the judge of probate of the county whence the patient came, and the commissioners of said county shall pay, out of the county treasury, the necessary traveling expenses of the return of the patient to his home in that county.

(Feb. 9, 1893, p. 344, § 16.)

868. (2560) Patients; when removed on furlough.—Ib., § 31. The superintendent may grant friends and relatives permission to remove from the hospital on trial or furlough at their expense any harmless patient whom he thinks it will benefit. The patient, if necessary, can be returned by friends or others at any time within six months from the beginning of his (or her) furlough; if, at the expiration of the six months, the patient has not been returned to the hospital, he (or she) shall be transferred from the furlough to the discharged list, and re-admission cannot be obtained, without the same legal process as if the person had never been a patient of the hospital.

(Feb. 9, 1893, p. 344, § 13.)

869. (2562) Probate judge of Tuscaloosa county may issue certificate in certain cases.—Ib., § 32. When any patient shall be brought to the Bryce Hospital without the proper committing certificate from the probate judge of the county in which he (or she) resides, the judge of probate of Tuscaloosa county, if he be properly informed that the patient can be received into the hospital, shall examine said patient, and if insane, give the proper certificate; and he shall notify the judge of probate of the county whence the patient came of the facts in the case; which judge, if the person is a paying patient, shall cause the proper bond to be made.

(Feb. 9, 1893, p. 344, § 17.)

870. Justice of the peace; when may issue certificates to patients at Mount Vernon.—Ib., § 33. In the case of a patient who is taken to the hospital at Mount Vernon without proper com-

mitment papers from the judge of probate of the county in which he (or she) resides, any justice of the peace convenient to the hospital, on notice of the physician in charge that the patient can be received, shall examine said patient after the manner prescribed for the judges of probate, and if he finds him (or her) insane, shall issue a certificate in the prescribed form and commit said patient to that hospital; at the same time he shall notify the judge of probate of the county whence the patient came of the facts in the case.

Dec. 11,
1900, p.
64, § 84.

871. (2563, 2564, 2565) (1250, 1251, 1252) (1494, 1495, 1496) (1067, 1068, 1069) **Convicts, when insane; how committed.**—

In case any person sentenced to or imprisoned in the penitentiary, or sentenced to or confined at hard labor for a county anywhere in the state, becomes insane, the physician in attendance on said convict shall report the fact to the governor, who shall appoint three suitable persons, one of whom is the said physician, who shall examine said convict, and report the result of their examination to the governor; if said convict is declared to be insane and fit to be sent to the hospital for insane persons, the governor shall direct the proper officer to apply to the superintendent at Tuscaloosa for the admission of the insane convict into the hospital, describing the case according to the same interrogatories prescribed for judges of probate, and, when notified by the superintendent that the insane convict can be received, and to which hospital he shall be taken, the said officer shall send him (or her), at the expense of the state, to said hospital, with a copy of the order of the governor. The same compensation shall be allowed to sheriffs or guards for conveying insane convicts to and from the hospital as is allowed for carrying prisoners to the penitentiary.

(Dec. 9, 1861, p. 258; Nov. 29, 1862, p. 96.)

Ib., § 85.

872. (2568) **Criminals; when and how committed to hospital.**—No criminal or person indicted for crime in the state, who has been declared insane, must be sent to an insane hospital until the sheriff or other officer having legal custody of said patient shall have forwarded to the superintendent a written application and a description of the case, according to the form prescribed for judges of probate, together with a certified copy of the order of the court or of the judgment under the authority of which the committal is made, and shall have received information in reply that the patient can be received, and to which hospital he (or she) shall be sent.

(Feb. 11, 1891, p. 476.)

Ib., § 86.

873. (2566) (1253) (1497) (1070) **Insane convicts; report of recovery.**—When any insane convict is carried to the hos-

pital, instructions shall always be given to whom his (or her) recovery shall be reported. When any convict, who is a patient in the insane hospital, has recovered, the superintendent shall notify the proper officers of the fact, who shall immediately remove said patient.

874. (2569) Officers and employes of hospital exempt from military, public road, and jury duty.—The superintendent, physicians, and all regular employes of either hospital shall be exempt from militia service, from liability to work the public roads, and from serving on juries. Dec. 11, 1900, p. 64, § 87.

875. (2571) Superintendent and physicians exempt from attending court as witnesses.—Neither the superintendent, nor a physician of said hospitals, shall be compelled to attend as a witness to testify as an expert in any case, or on any question of insanity or psychological medicine in the state, provided he shall certify in writing within ten days after the service of the summons that his absence from the hospital, in his best judgment, will interfere with his professional duties and the welfare of the patients under his care. But defendants in criminal cases and the state by the consent of the defendant, and in civil cases, either party may take the deposition of the superintendent or of any of the physicians as to all matters involving his or their expert opinion when such testimony is admissible. Ib., § 88.

876. (2570) Police; appointment and duties of, for insane hospital.—The superintendent of the insane hospitals may appoint or employ one or more suitable persons to act as police officers, to arrest intruders, trespassers, and persons guilty of improper or disorderly conduct on the property of the hospitals. Such officers shall be charged with all the duties and invested with all the powers of police officers, and may eject trespassers from the hospital grounds, buildings, or lands, or arrest them, and may without warrant arrest any person guilty of abuse of a patient, of misdemeanor, or disorderly conduct, of stealing or injuring property, or other offenses committed on the lands or premises of the hospitals, and take such person before a justice of the peace or other officer charged with trial of such offenders, before whom, upon proper affidavit charging the offense, the person so arrested shall be tried; and if found guilty, convicted as in cases of persons brought before such a court on a warrant; and such police officers shall have authority to summon a posse comitatus. Ib., § 89.

877. (2572) Public roads or highways established through land.—No public road, railroad, or other highway shall be established or projected over or through the lands of either hospital without the consent of the superintendent and the Ib., § 80.

Swamp and Overflowed Lands.

resident committee of trustees granted by resolution and recorded in the minutes of the committee.

Dec. 11,
1900, p.
64, § 41.
(r. c. c.)

878. (2574) Appropriation for institution.—For the support, repair, and improvement of the hospitals, a sum, regulated by the board of trustees, not exceeding three dollars a week or thirty-nine dollars for thirteen weeks, shall be paid by the state quarterly, on the last days of March, June, September, and December of every year, for every indigent and criminal patient present on those dates in hospitals; and the state auditor shall issue his warrant for that amount on the order of the treasurer of the hospitals, when countersigned by the superintendent; and any balance remaining in the hands of the treasurer or steward on the 30th day of September of every year shall be placed to the credit of a fund which shall be expended for permanent improvements.

ARTICLE 2.

SWAMP AND OVERFLOWED LANDS. 879-882.

SECTION.

879. Grant of swamp and overflowed lands.

880. Purchasers may obtain patent.

SECTION.

881. Alleged claims may be established and title secured.

882. Titles prior to Feb. 12, 1879, not to be disturbed.

Oct. 10,
1908, p.
495, § 1.

879. Grant of swamp and overflowed lands.—Lands known as swamp and overflowed lands, which are now or may hereafter be owned by the State of Alabama, are granted to the trustees of "The Alabama Insane Hospitals," to be sold or disposed of by such trustees under and by such rules and regulations as they may see fit to adopt.

Ib., § 2.

880. Purchasers may obtain patent.—Whenever called upon by said trustees, the governor shall cause patents to be issued to said trustees to said lands in order that those purchasing said lands from said trustees shall have a perfect claim of title to same. To all lands sold under the preceding section the governor shall cause patents to be issued to said trustees, and said trustees shall in turn convey the same to such purchasers.

Ib., § 3.

881. Alleged claims may be established and title secured.—All persons claiming title to any swamp and overflowed lands in the state under any alleged purchase from it by themselves, or their predecessors in title, may submit claims therefor to said trustees of the Alabama Insane Hospitals, together with such evidence of such purchase and with the present interest of the claimant therein as such claimant may see fit, whereupon said trustees shall examine into said alleged title, and if it be found that the state has parted with its title to any of such lands in

a legal and effective way, the trustees shall so determine and certify to the governor, but if the trustees shall find that the state has not parted in a legal or effective way with the title to any such lands, but that any consideration of equity or justice requires a settlement with the purchaser or his successor in title, they shall settle and adjust the said title upon such terms as to the payment of further consideration or otherwise, as they may think right; upon such adjustment they shall certify to the governor; upon receipt of certificates, the governor shall cause patents to issue to the claimant under the seal of the state to the lands covered by such certificate, and shall vest a fee simple title in the grantee named in such patent.

882. Titles prior to February 12, 1879, not to be disturbed.— Nothing in this article shall be so construed as to authorize the said trustees to interfere with or disturb the title and possession of the purchaser or present owner of any such swamp and overflowed lands, which were sold prior to February 12, 1879, and the sales of which were confirmed by an act of the legislature of that date.

Oct. 10,
1908, p.
496, § 4.

CROSS REFERENCES.

INSANE HOSPITALS (Political Code)	838- 882
INSANITY AS A DEFENSE FOR CRIME (Criminal Code)	7175-7183
INSOLVENT CORPORATIONS (Civil Code)	3509
INSOLVENT ESTATES (Civil Code)	2755-2796
INSPECTORS OF ALMSHOUSES, JAILS, ETC. (Criminal Code) ..	7212-7222
INSPECTORS OF ELECTION (Political Code)	347- 445
INSPECTORS OF MINES (Political Code)	999 et seq.
INSTALLATION (Political Code)	1461
INSTITUTES, FARMERS (Political Code)	70- 72
INSTITUTE FOR THE DEAF, DUMB, AND BLIND (Political Code)	1933-1953
INSULTING LANGUAGE (Criminal Code)	6217
INSURANCE (Criminal Code)	7184-7190
INSURANCE COMPANIES (Civil Code)	3562, 3563, 4543-4610
INSURED HOUSE OR PROPERTY (Criminal Code)	6300, 6929, 6930
INSURRECTIONS (Criminal Code)	7721-7726, 7400, 7401
INTEMPERATE PERSONS (Civil Code).....	4611-4618
INTEMPERATES AND INEBRIATES; PROTECTION OF ESTATE	
(Civil Code)	4611-4618
INTEREST AND USURY (Political Code)	626- 630
“ (Civil Code)	4619-4625, 5904-5945
INTERPLEADER AT LAW (Civil Code)	6039-6053
INTERPRETERS (Civil Code)	4010
INTERROGATORIES TO PARTIES (Civil Code)	4049-4057
INTOXICATING LIQUORS; LICENSE TO SELL (Civil Code)....	5760-5764
INTOXICATING LIQUORS; OFFENSES CONCERNING (Criminal Code)	7352-7382
INTOXICATING LIQUORS; SALE BY DISPENSARIES (Political Code)	228- 289

INVENTORY (Civil Code)	2579-2585, 4174, 4178
ISSUE (Civil Code)	5199, 3807, 3399
ITINERANT MINISTERS (Civil Code)	3593-3596
ITINERANT VENDERS (Political Code)	2361
JACKS (Civil Code)	4810-4813, 3955, 3956
JAIL (Political Code)	128-145
“ (Criminal Code)	7191-7211
JAILS, ALMSHOUSES, COTTON MILLS, OR FACTORIES; INSPEC- TION OF (Criminal Code)	7212-7222
JAILS AND JAILERS (Political Code)	134-144
JENNY-LIND TABLE (Political Code)	2361
JETSAM AND FLOTSAM (Civil Code)	5844-5857
JOHNSON-GRASS SEED; SALE OF IN OATS (Criminal Code)	7223
JOINDER OF ACTIONS (Civil Code)	5328, 5329, 4738, 4787
JOINT TENANCY (Civil Code)	5203-5231
JUDGE-ADVOCATE (Political Code)	930, 934, 979
JUDGE-ADVOCATE GENERAL (Political Code)	930, 931
JUDGE OF CITY COURT (Political Code)	336
“ (Civil Code)	3296
JUDGE OF COUNTY COURT (Political Code)	1535-1548
JUDGE OF PROBATE (Political Code)	1535-1548
JUDGES (Civil Code)	3066-3069, 3267, 3268, 5953, 5439, 5440
JUDGES; COMPETENCY OF (Civil Code)	4626-4628
JUDGMENT AND SENTENCE IN CRIMINAL CASES (Criminal Code) 7316, 7620-7654	
JUDGMENT ARRESTED (Criminal Code)	7159, 7160
JUDGMENTS AND DECREES (Civil Code)	2819-2822, 4139 et seq., 4077 et seq.
JUDGMENTS AND EXECUTIONS (Civil Code)	4077-4159
JUDGMENTS, RECORDING AND REGISTRATION (Civil Code)	4156-4159
JUDGMENTS, SUMMARY (Civil Code)	5899-5947
JUDICIAL CIRCUITS (Civil Code)	3229-3278
JUDICIAL DEPARTMENT (Civil Code)	3229-3278, 3042-3085, 5948-6005
JUDICIAL POWER OF COURTS AND JUDGES (Civil Code)	4629-4632
JURISDICTION (Political Code)	2427, 2428
“ (Civil Code)	3052, 3255, 3296, 3312
“ (Criminal Code)	6692, 6694, 6695, 6700, 6733
JURISDICTION OF CRIMINAL CASES (Criminal Code)	6692-6745
JURISDICTION OF PERSONS AND OFFENSES (Criminal Code)	7224-7232
JURORS AND JURIES (Civil Code)	4633-4636, 4584 et seq.; 5359-5365
“ (Criminal Code)	7233-7317
JURY COMMISSIONERS (Criminal Code)	7233-7238, 7478-7480
JURY TRIAL IN CHANCERY (Civil Code)	3201-3205
JUSTICE OF THE PEACE (Political Code)	1469-1471
“ (Civil Code)	4637-4730
“ (Criminal Code)	6733-6744, 7584-7615
JUSTICES OF SUPREME COURT (Civil Code)	5948-5967
JUVENILE DELINQUENTS (Criminal Code)	6450-6465
KEEPER OF CAPITOL (Political Code)	558-560
KEEPING ESTATES TOGETHER (Civil Code)	2743-2754
KEGS (Criminal Code)	7318-7321
KIDNAPPING (Criminal Code)	6213
KINDRED (Civil Code)	3757
KNIGHTS OF PYTHIAS (Civil Code)	4562, 3571
LABELS, STAMPS, MARKS OR BRANDS OF GOODS, WARES, OR MERCHANDISE (Criminal Code)	7318-7323

Salt Springs.

LABORERS (Civil Code).....3910-3912, 4794-4805
 " (Criminal Code).....6850, 6851, 6856
 LABORERS' LIEN (Civil Code).....4794-4805
 LAGER BEER (Political Code)..... 2361
 LANDLORD AND TENANT (Civil Code).....3844, 4731-4753
 LANDS OF SCHOOL (Political Code)1781 et seq.
 LANDS, QUIETING TITLE (Civil Code)5443-5448
 LANDS CEDED BY STATE TO UNITED STATES (Political Code).898, 899

CHAPTER 27.

LANDS OF THE STATE. 883-890.

- ARTICLE 1. SALT SPRINGS. 883-887.
 ARTICLE 2. GRANTS BY THE STATE. 888-891.
 ARTICLE 3. LAND AGENT. 892-897.
 ARTICLE 4. LANDS CEDED BY STATE TO UNITED STATES. 898-899.

ARTICLE 1.

SALT SPRINGS. 883-887.

SECTION.

883. Salt springs may be leased by the governor.
 884. Lands of the state; right to quarry limestone and clay authorized.

SECTION.

885. Governor appoints agent.
 886. Compensation.
 887. Former agents and lessees to settle.

883. (2695) (639) (526) (621) (549) Salt springs may be leased by the governor.—The governor may lease the salt springs, and lands granted to the state under the second clause of the sixth section of the act of congress of March 2, 1819, to the best advantage, in conformity with the provisions of the grant.

Original statutes passed Dec. 17, 1819.—Toulmin's Digest, pp. 691, et seq. (Aikin's Digest, p. 369, § 1; Clay's Digest, p. 518, § 1.)

884. Lands of state; right to quarry limestone and clay authorized.—The governor may sell the right to quarry limestones and clays necessary or proper for the manufacture of cement upon the following lands: Sections 21 and 28, Township 5 N; Range 2 E, or any part thereof. He may sell the said rights for such price and upon such terms as to him appear reasonable and just. The sale of such rights shall confer upon the purchaser landing privileges, all necessary rights of way for the purpose of quarrying the material and moving the same, and all rights and privileges which are necessary for the enjoyment of the rights granted; but the state shall retain

Sept. 17,
 1908, p.
 238, § 1.

LANDS OF THE STATE.

Grants by the State.

possession of the lands, and have the right to the use and enjoyment thereof for every other purpose whatever.

885. (2696) (640) (527) (622) Governor appoints agent.—The governor may appoint a suitable agent, whose duty it shall be to superintend the salt springs and salt lands donated to the state by the congress of the United States; to prevent all trespass and waste on such lands; to lease the springs and lands on such terms and conditions as he may see fit, not to exceed ten years at any one time; to settle all accounts with any former agent or agents, lessee, or lessees; to take charge of all property of every kind on such lands; to collect all property, debts, and demands, due the state from all persons, and generally, to save and to secure to the state whatever property, debts, and demands may be due the state on account of such lands. The agent shall report, every six months, to the governor all the property of every kind collected or received, and all settlements made by him, and, generally, all his actings and doings in regard to the salt lands.

(Feb. 23, 1866, p. 89, § 1.)

886. (2697) (641) (528) (623) Compensation.—The agent shall receive such compensation for his services as the governor may deem proper and right, not to exceed one thousand dollars for any one year, and may be removed at any time by the governor, and a successor appointed.

(Feb. 23, 1866, p. 90, § 2.)

887. (2698) (642) (529) (624) Former agents and lessees to settle.—All former agents and lessees, and all debtors and other persons having property or debts due the state, are authorized and required to settle and deliver the same to the agent appointed by the governor under this article.

(Feb. 23, 1866, p. 90, § 3.)

ARTICLE 2.

GRANTS BY THE STATE. 888-891.

SECTION.

888. Grants by state made by patents.

889. Grants and patents recorded.

SECTION.

890. Patent issues on payment, certified by treasurer.

891. Patents for swamp and overflowed lands.

888. (2699) (1875) (2228) (1620) (1350) Grants by state made by patents.—For the conveyance of any real property belonging to the state, a patent issues under the seal of the

Land Agent.

state, signed by the governor, and attested by the secretary of state.

Original statutes passed Dec. 17, 1819.—Toulmin's Digest, pp. 691 et seq. (Aikin's Digest, p. 95, § 41; Clay's Digest, p. 158, § 42.)

889. (2700) (1876) (2229) (1621) (1351) Grants and patents recorded.—The secretary of state must record, in well-bound books, all grants and patents issued by the state.

(Aikin's Digest, p. 95, § 43; Clay's Digest, p. 158, § 44.)

890. (2701) (1877) (2230) (1622) (1352) Patent issues on payment, certified by treasurer.—All purchasers of real property belonging to this state, their heirs and assigns, except in cases otherwise provided by this Code, are entitled to receive a patent therefor, on producing to the secretary of state a certificate signed by the state treasurer, that the amount due for such real estate has been paid into the state treasury.

Original statutes passed Dec. 17, 1819.—Toulmin's Digest, pp. 691 et seq. (Clay's Digest, p. 158, § 43.)

891. (2702) Patents for swamp and overflowed lands.—The governor is authorized and empowered to issue patents to the purchasers of swamp and overflowed lands or lands in lieu of swamp and overflowed lands, which were made prior to October 10, 1903, and which may have been patented to this state, or which may hereafter be so patented, upon satisfactory proof being made to him that such lands have been fully paid for in money or in scrip sold and transferred by him and authorized by the acts of congress to be received in payment for such lands.

(Nov. 26, 1888, p. 5.)

ARTICLE 3.

LAND AGENT. 892-897.

SECTION.

892. Land agent employed by governor.

893. Land agent; compensation of.

894. Reports of land agent.

SECTION.

895. Power of land agent.

896. Expenses allowed and paid.

897. Expenses to be refunded.

892. Land agent employed by governor.—The governor may employ an agent for the purpose of examining into the sale and disposition heretofore made of school or other lands belonging to the state, with a view of recovering to the state lands which have illegally passed out of its possession, and of settling or quieting titles now in dispute. The employ of such agent shall be at the pleasure of the governor, who shall discontinue, suspend, or employ such agent as he may consider best for the work in hand.

Feb. 23,
1899, p.
116, §§ 1
and 2.

Feb. 23,
1869, p.
116, § 2.

893. Land agent, compensation of.—Such agent shall receive as compensation a salary, to be fixed by the governor, not exceeding one hundred dollars per month while actually employed.

Ib., § 3.

894. Reports of land agent.—Such agent shall be under the direction and control of the governor, to whom, and to the state superintendent of education, he shall make report of his findings as to any public land to which he may discover the state has a legal claim, or with the title to which it had not parted; and the governor shall take such steps, by suit or otherwise, as he may think necessary, to establish the rights of the state and recover possession of the land.

Ib., § 4.

895. Power of land agent.—Such land agent may call on any official of this state for access to any records bearing on the subject of his investigation; and tax assessors shall, when called upon, furnish such agent with the names and addresses of persons now in possession of any sixteenth section land, together with the present assessed value of such land.

Ib., § 5.

896. Expenses allowed and paid.—Such land agent shall be allowed his actual expenses while engaged in the work, not exceeding one dollar per day, which shall be paid on the approval of the governor.

Ib., § 6.

897. Expenses to be refunded.—All expenses incurred by the state under the provisions of this article, shall be hereafter refunded to the state treasury out of the first moneys that may be recovered to the state, or to the sixteenth section fund, as the result of the work of the agent herein provided for.

ARTICLE 4.

LANDS CEDED BY STATE TO UNITED STATES. 898-899.

SECTION.

898. Cession of certain lands to United States.

SECTION.

899. Duration of jurisdiction.

Feb. 9,
1903, p.
43, § 1.

898. Cession of certain lands to United States.—The State of Alabama has ceded to the United States of America, jurisdiction over all lands which have been or may hereafter be purchased by the said United States in the State of Alabama, for the purpose of erecting thereon any armory, arsenal, fort, fortification, navy yard, custom house, light house, postoffice, or public building of any kind whatever, and the legislature of the State of Alabama has consented to all such purchases by said United States of America.

Ib., § 2.

899. Duration of jurisdiction.—The jurisdiction ceded shall continue during the term the United States of America shall

remain owner of the land so purchased, and shall be exclusive for all purposes except that the service of process issued out of the courts of the State of Alabama, shall not be prevented therein.

CROSS REFERENCES.

LANDS, OVERFLOWED (Political Code).....	879- 882
LANDS, PATENTED BY THE STATE (Political Code).....	888- 891
LANGUAGE, ABUSIVE OR INSULTING (Criminal Code).....	6217
LARCENY AND LIKE OFFENSES (Criminal Code).....	7324-7337
LAW, COMMON (Political Code)	12
LAW-MAKING POWERS (Political Code).....	900- 928
LAWS; WHEN TAKE EFFECT (Criminal Code)	7805
LAWYERS; LICENSE AND EXAMINATION OF (Civil Code)....	2972-3011
LAWYERS; LIEN FOR FEES (Civil Code)	3010-3011
LEASE (Political Code).....	1781 et seq.
" (Civil Code)	3418
LEASEHOLD ESTATE (Civil Code)	3418
LEASES OF LAND (Civil Code).....	4731-4753
LEGACIES (Civil Code)	2710-2723, 6159 et seq.
LEGACIES, PAYMENT OF (Civil Code).....	2736-2742
LEGAL HOLIDAYS (Civil Code).....	5144
LEGERDEMAIN (Civil Code).....	2361

CHAPTER 28.

LEGISLATURE. 900-928.

SECTION.

- 900. House of representatives.
- 901. Senatorial districts.
- 902. Quadrennial sessions and place of meeting.
- 903. Length of sessions.
- 904. Time of meeting.
- 905. Election by legislature; how conducted.
- 906. Committee appointed to examine offices of auditor and treasurer.
- 907. Duty of examining committee.
- 908. What the committee must report.
- 909. Papers of legislature; deposit of.
- 910. Engrossed copies of laws, etc., to be preserved.
- 911. Papers and documents; how filed and arranged.
- 912. Secretary of state to receipt for papers.
- 913. Oath of office; by whom administered.
- 914. Pay and mileage of officers and members.
- 915. Pay in case of sickness.
- 916. Pay of committees sitting during recess, and of their clerks.

SECTION.

- 917. Mileage when intervals between sessions are not more than four days.
- 918. Amount of pay due; how certified.
- 919. Oaths to subordinate officers, by whom administered.
- 920. Subordinate officers; election; term of office, and removal.
- 921. Compensation of secretary and clerk and assistants; additional duties of assistants.
- 922. Compensation of enrolling and engrossing clerks, doorkeepers, and assistants; sergeant-at-arms.
- 923. Subordinate employes of the legislature.
- 924. Appointment and election of subordinate employes of legislature.
- 925. Terms of employment of subordinate employes of legislature.
- 926. Compensation of subordinate employes of the legislature.
- 927. Pay of subordinate officers; how certified and paid.
- 928. Secretary of senate and clerk of house to file papers and furnish copy of journal.

As amended by Cont., 1901, §§ 198 and 202; Feb. 1908, p. 44, § 1.

900. (2213) (24) (24) (27) (26) House of Representatives.—
 The house of representatives of the legislature consists of one hundred and six members, distributed among the several counties as follows: The counties of Autauga, Baldwin, Bibb, Blount, Cherokee, Chilton, Choctaw, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, DeKalb, Escambia, Fayette, Franklin, Geneva, Greene, Houston, Lamar, Lawrence, Limestone, Macon, Marion, Marshall, Monroe, Pickens, Randolph, Shelby, St. Clair, Washington, and Winston, shall each elect one representative. The counties of Barbour, Bullock, Butler, Calhoun, Chambers, Clarke, Elmore, Etowah, Hale, Henry, Jackson, Lauderdale, Lee, Lowndes, Madison, Marengo, Morgan, Perry, Pike, Russell, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, and Wilcox, shall each elect two representatives. The counties of Dallas and Mobile shall each elect three representatives. The

county of Montgomery shall elect four representatives; and the county of Jefferson shall elect seven representatives.

(Aikin's Digest, pp. 214-218; Clay's Digest, pp. 261-265; Feb. 26, 1881, p. 117; Feb. 4, 1891, p. 338; Const. 1875, art. 9, §6.)

901. (2214) (28) (28) (30) (27) Senatorial districts.—The senate of the legislature shall consist of thirty-five members, and the state is divided into thirty-five senatorial districts, as follows: First, Lauderdale and Limestone; second, Lawrence and Morgan; third, Blount, Cullman, and Winston; fourth, Madison; fifth, Jackson and Marshall; sixth, Etowah and St. Clair; seventh, Calhoun; eighth, Talladega; ninth, Chambers and Randolph; tenth, Tallapoosa and Elmore; eleventh, Tuscaloosa; twelfth, Fayette, Lamar, and Walker; thirteenth, Jefferson; fourteenth, Pickens and Sumter; fifteenth, Autauga, Chilton, and Shelby; sixteenth, Lowndes; seventeenth, Butler, Conecuh, and Covington; eighteenth, Bibb and Perry; nineteenth, Choctaw, Clarke, and Washington; twentieth, Marengo; twenty-first, Baldwin, Escambia, and Monroe; twenty-second, Wilcox; twenty-third, Dale and Geneva; twenty-fourth, Barbour; twenty-fifth, Coffee, Crenshaw, and Pike; twenty-sixth, Bullock and Macon; twenty-seventh, Lee and Russell; twenty-eighth, Montgomery; twenty-ninth, Cherokee and DeKalb; thirtieth, Dallas; thirty-first, Colbert; Franklin, and Marion; thirty-second, Greene and Hale; thirty-third, Mobile; thirty-fourth, Clay, Cleburne, and Coosa; thirty-fifth, Henry and Houston.

Amended by Const., 1901, § 203; Sept. 26, 1908, p. 264, § 1.

(Feb. 19, 1867, p. 626, § 1; Feb. 8, 1877, p. 232; Feb. 10, 1883, p. 44; Feb. 4, 1891, p. 337; Const. 1875, art. 9, § 7.)

902. (2215) (31) (31) (37) (32) Quadrennial sessions and place of meeting.—The legislature shall meet quadrennially at the capitol, in the senate chamber and in the hall of the house of representatives, unless at any time it should, from any cause, become impossible or dangerous for the legislature to meet or remain at the capitol or for the senate to meet or remain in the senate chamber, or for the representatives to meet or remain in the hall of the house of representatives, the governor may convene the legislature, or remove it after it has convened, to some other place for the sitting of the respective houses, or either of them, as necessity may require.

As amended by Const., 1901, § 48.

(Const. 1865, art. 41, § 10; Const. 1875, art. 4, § 5.)

903. Length of sessions.—The legislature shall not remain in session longer than fifty days at any session.

As amended by
Const.,
1901, § 48.

904. (2216) (32) (32) (38) **Time of meeting.**—The legislature shall meet on the second Tuesday in January, 1911, and quadrennially thereafter on the same day.

(Aikin's Digest, p. 216, § 21; Clay's Digest, p. 263, § 23; Feb. 16, 1866, p. 58; Feb. 19, 1867, p. 614; Jan. 22, 1876, p. 120.)

905. (2217) (33) (33) (39) (33) **Election by legislature; how conducted.**—All elections by the legislature are to be conducted as follows:

1. On the day and hour appointed for the election, the members of both houses must assemble in the hall of the house of representatives.

2. The names of the members of each house are to be called by their respective clerks, each member voting viva voce as his name is called.

3. The result must then be ascertained by the president of the senate and the speaker of the house, and announced by the last-named officer.

4. The votes are to be given for but one election at the same time, and a majority of the whole number of votes given is necessary to a choice.

(Aikin's Digest, p. 216, § 24; Clay's Digest, p. 263, § 24.)

906. (2218) (34) (34) (40) (34) **Committee appointed to examine offices of auditor and treasurer.**—During the first week of each regular session of the legislature, the presiding officer must appoint a committee of three members of each house, jointly to examine the offices of state auditor and state treasurer.

(Aikin's Digest, p. 196, § 16; Clay's Digest, p. 244, § 15.)

907. (2219) (35) (35) (41) (35) **Duty of examining committee.**—It is the duty of such committee to examine the accounts and vouchers of such officers as to all moneys received into, and paid out from the treasury during the four preceding fiscal years; to compare the warrants drawn by the auditor during that period, with the several laws by authority of which they purport to be drawn; to examine into the other accounts and books of such offices, and to count the money on hand at the time of the examination.

908. (2220) (36, 37) (36, 37) (42, 43) (36, 37) **What the committee must report.**—Such committee must report to their respective houses during the session of the legislature the amount of money received into and paid out of the treasury during the four preceding fiscal years, on warrants drawn by the auditor, if such auditor was authorized by law to draw such warrants; specifying such as, in their opinion, were drawn

without authority, and their reasons therefor; the time when the treasurer in office entered upon his duties, and the amount of money received by him up to the time of such examination; the balance in the treasury on the first day of November preceding, and at the time of such examination; the condition of such offices, and the correctness of all books and accounts required by law to be kept therein.

909. (2221) (38) (38) (44) (38) Papers of legislature, deposit of.—At the close of each session, the secretary of the senate, and the clerk of the house of representatives, and secretary of state, must select all the papers belonging to the legislature, except such as relate to unfinished business, and deposit them in the office of the secretary of state.

(Aikin's Digest, p. 217, § 29; Clay's Digest, p. 264, § 29.) No presumption indulged in favor of legislative journals where constitution requires the journals to affirmatively show such matter.—Ex parte Howard-Harrison Co., 119 Ala. 484 (24 So. 516). Amendments of bills on passage; variance between bill passed by house and senate.—Ex parte Howard-Harrison Co., 119 Ala. 484 (24 So. 516). Only enrolled bill in journals of two houses can be looked to to determine constitutionality of act.—Robertson v. State, 130 Ala. 164 (30 So. 494). The bound volumes of the proceedings, transcribed and signed by the presiding officers of the respective houses of the legislature and deposited with and kept by the secretary of state, constitute the journals.—Robertson v. State, 130 Ala. 164 (30 So. 494); Montgomery Co. v. Gaston, 126 Ala. 425 (28 So. 497). Journal not published until after adjournment; clerk must select at close of session all papers which shall be deposited.—State v. Wilson, 123 Ala. 259 (26 So. 482).

910. (2222) (39) (45) (39) Engrossed copies of laws, etc., to be preserved.—The engrossed copies of all laws and joint resolutions passed by the legislature must be preserved by the secretary of the senate and clerk of the house, and deposited in the office of the secretary of state. (r.c.c.)

(Aikin's Digest, p. 217, § 30; Clay's Digest, p. 264, § 30.)

911. (2223) (40) (40) (46) (40) Papers and documents, how filed and arranged.—The secretary of the senate, and the clerk of the house of representatives must, within ten days after the adjournment of each session, assort all the papers and documents of their respective houses relating to the unfinished business of the session, and arrange them in files, as follows:

1. All petitions, with the accompanying documents, to be arranged and filed in alphabetical order, tied up in convenient packages, with a label on each, showing the character of the documents, and the session to which they relate.

2. All bills rejected on the third reading must be arranged, filed, and labeled in like order; and so of bills which were not reported favorably from a standing committee; the labels in each case showing the disposition of the bills. (r.c.c.)

3. All communications from the governor, auditor, treas-

urer, or other officer or person, which have been received during the session, and not entered at length on the journals, must be arranged, filed, and labeled in separate packages, showing from what department, officer, or person the same were received.

4. Special reports from standing and select committees must be arranged, filed, and labeled in like manner.

5. Any other papers or documents, not included under either of the foregoing heads, must be arranged, filed, and labeled as miscellaneous papers; the labels showing the session to which they belong, and, as near as practicable, the character of the papers; and in every instance, to which house of the legislature they belong.

(Aikin's Digest, p. 217, §§ 31, 32; Clay's Digest, p. 264, §§ 31, 32.)

912. (2224) (41) (41) (47) (41) Secretary of state to receipt for papers.—The records, papers, and documents, thus arranged, filed, and labeled, must be delivered to the secretary of state, who, upon receipt of the same, must certify that such secretary and clerk have, respectively, complied with the requirements of the preceding section; and no warrant must be drawn by the state auditor, and no money paid by the state treasurer, for such services, without the production of such certificate, which must be kept by the state treasurer as a voucher.

(Aikin's Digest, p. 218, § 33; Clay's Digest, p. 265, § 33.)

913. (2225) (42) (42) (48) (42) Oath of office; by whom administered.—The oath of office may be administered to the members of the legislature by any judge of the supreme, circuit, or probate court, or justice of the peace, or the president of the senate, or the speaker of the house of representatives; and the president of the senate and the speaker of the house of representatives may be sworn in by any member of their respective houses.

(Aikin's Digest, p. 331, § 5; Dec. 17, 1872, p. 84.)

(r.c.c.)

914. (2226) (43) (43) (49) (43) Pay and mileage of officers and members.—The president of the senate and speaker of the house of representatives shall each receive six dollars for each day's attendance, and each member of the legislature shall receive four dollars for each day's attendance; the president of the senate and speaker of the house of representatives and each member of the legislature shall be allowed ten cents for every mile's travel in going to and returning from the seat of government, according to the distance herein specified, to wit: Autauga, fourteen miles; Baldwin, one hundred and fifty-five

miles; Barbour, one hundred and one miles; Bibb, seventy-two miles; Blount, one hundred and thirty-two miles; Bullock, forty-one miles; Butler, forty-four miles; Calhoun, one hundred and fifty miles; Chambers, eighty-three miles; Cherokee, one hundred and seventy-three miles; Chilton, forty miles; Choctaw, one hundred and fifty-nine miles; Clarke, one hundred and thirty-four miles; Clay, one hundred and forty-two miles; Cleburne, one hundred and fifty-three miles; Coffee, one hundred and forty miles; Colbert, two hundred and twenty-eight miles; Conecuh, eighty-two miles; Coosa, one hundred and twenty-six miles; Covington, ninety-two miles; Crenshaw, fifty-two miles; Cullman, one hundred and fifty miles; Dale, ninety-two miles; Dallas, fifty miles; DeKalb, one hundred and eighty six miles; Elmore, eighteen miles; Escambia, one hundred and five miles; Etowah, one hundred and sixty miles; Fayette, one hundred and seventy-seven miles; Franklin, two hundred and thirteen miles; Geneva, one hundred and thirty-six miles; Greene, one hundred and forty-two miles; Hale, one hundred and two miles; Henry, one hundred and forty-four miles; Houston, one hundred and nineteen miles; Jackson, two hundred and fifty miles; Jefferson, ninety-six miles; Lauderdale, two hundred and thirty-three miles; Lamar, two hundred and eight miles; Lawrence, two hundred and eleven miles; Lee, sixty-six miles; Limestone, two hundred and fourteen miles; Lowndes, twenty-four miles; Macon, forty-five miles; Madison, two hundred and seven miles; Marengo, one hundred miles; Marion, two hundred miles; Marshall, one hundred and eighty-six miles; Mobile, one hundred and eighty-five miles; Monroe, one hundred and sixty-one miles; Montgomery, ———; Morgan, one hundred and eighty-three miles; Perry, eighty miles; Pickens, one hundred and forty-eight miles; Pike, fifty-two miles; Randolph, one hundred and nineteen miles; Russell, seventy-five miles; Shelby, seventy-four miles; St. Clair, one hundred and forty miles; Sumter, one hundred and thirty-five miles; Talladega, one hundred and ten miles; Tuscaloosa, one hundred and seven miles; Tallapoosa, ninety-seven miles; Walker, one hundred and thirty-seven miles; Washington, two hundred and ten miles; Wilcox, one hundred and fifteen miles; Winston, one hundred and eighty-five miles.

(Aikin's Digest, p. 216 § 17; p. 217, §§ 26, 27; Clay's Digest, p. 263, § 17; p. 264, §§ 26, 27; Feb. 28, 1889, p. 94; Mar. 1, 1881, p. 166; Feb. 5, 1879, p. 52; Feb. 19, 1867, p. 635.) Session of legislature, what constitutes; adjournment, resolution as to; force and effect of such resolution.—Ex parte Mathews, 52 Ala. 51. Resolution as to payment of mileage.—Ib; ex parte Pickett, 24 Ala. 91.

915. (2227) (44) (44) (50) (44) **Pay in case of sickness.**—If, in consequence of sickness, any member is detained, after leav-

ing home, in going to the seat of government, or is unable to attend the house, or senate, after he arrives there, he is entitled to the same pay as an attending member.

916. (2228) (45) Pay of committees sitting during recess, and of their clerks.—Members of the legislature who may be required by a joint resolution, or a resolution of either house, to serve on a committee during any recess of the legislature, and all clerks whom said committee may be authorized to employ, shall each receive four dollars per day while engaged on the work assigned such committee; and the members of said committee shall also receive the same mileage they receive for attending the legislature. The chairman of such committee shall certify to the auditor what amount is due such member or clerk, who must draw his warrant therefor on the state treasurer.

917. (2229) (46) (45) (51) Mileage when intervals between sessions are not more than four days.—When the interval between a regular and called session, or between a called and regular session, is not more than four days, no mileage shall be allowed.

(Nov. 6, 1861, p. 50.)

918. (2230) (47) (46) (52) (45) Amount of pay due; how certified.—The compensation due to the officers and members of the legislature must be certified by the president and speaker, respectively, to the state auditor, who must issue his warrant therefor on the state treasurer.

(Clay's Digest, p. 264, § 28.)

919. (2232) (49) (48) (53) (46) Oaths to subordinate officers, by whom administered.—The president of the senate and speaker of the house are to administer the oaths required to the subordinate officers of their respective houses.

(r.c.o.)

920. (2233) (50) (49) Subordinate officers; election; term of office, and removal.—The subordinate officers of the legislature shall consist of a secretary, an assistant secretary, an enrolling clerk and engrossing clerk, a doorkeeper, and an assistant doorkeeper for the senate; a clerk, an assistant clerk, an engrossing clerk, an enrolling clerk, a doorkeeper and assistant doorkeeper for the house of representatives, which officers shall be elected by each house, respectively, at the beginning of the session of the legislature, or at such other times as may be necessary, who shall hold their offices until the close of the session, except the secretary and doorkeeper of the senate, and clerk and doorkeeper of the house, who shall hold their offices until their successors are qualified; and may be removed for cause by each house, respectively. The assistant

secretary, engrossing clerk, and enrolling clerk of the senate, and their assistants, shall be under the control and direction of the secretary of the senate; and the assistant clerk, engrossing clerk, and enrolling clerk of the house, and their assistants, shall be under the control and direction of the clerk of the house.

921. (2234) (51) (50) Compensation of secretary and clerk and assistants; additional duties of assistants.—The secretary of the senate, and the clerk of the house of representatives shall each receive six dollars per day, and where they attend the organization of the next session of the legislature they shall receive the same mileage as a representative, from the county of his residence. The assistant secretary of the senate, and the assistant clerk of the house of representatives, shall each receive six dollars per day; and, in addition to their regular duties, shall keep a register of all the bills, resolutions, and memorials that may be introduced by the members of their respective houses, showing the title of each bill, resolution, and memorial, the time when, and by whom introduced, the date of their several readings, and, if referred, to what committee, and the final disposition thereof.

922. (2235) (52) (51) Compensation of enrolling and engrossing clerks; doorkeepers and assistants; sergeant-at-arms.—The enrolling clerk and engrossing clerk of the senate, the engrossing clerk of the house, and the enrolling clerk of the house, shall each receive five dollars per day; the doorkeeper and assistant doorkeeper of each house shall each receive four dollars and a half per day. The doorkeeper of each house shall be charged with the duties of a sergeant-at-arms, and shall keep order in the lobby and galleries.

923. (2236) (53) (52) Subordinate employes of the legislature.—The subordinate employes of the senate shall consist of a comparing clerk, four pages, one messenger, committee clerks not exceeding nine in number, and assistants to the secretary of the senate not exceeding eleven in number at any one time, and assistants to the engrossing clerk and enrolling clerk of the senate not exceeding four each at any one time, two servants and one doorkeeper of the gallery. The subordinate employes of the house of representatives shall consist of a reading clerk, six pages, three messengers, and committee clerks not exceeding ten in number, and clerical assistants to the clerk of the house not exceeding eleven in number at any one time, and clerical assistants to the enrolling clerk of the house not exceeding fifteen in number at any one time, and clerical assistants to the engrossing clerk of the house not exceeding

Jan. 26,
1903, p.
27, §§ 1
and 2.
(r. c. c.)

nine in number at any one time, two servants and one door-keeper of the gallery.

(Dec. 14, 1876, p. 51 § 4.),

As amend-
ed, Mar. 2,
1907, p.
197, § 1.

924. (2237, 2238) (55, 54) (54, 53) **Appointment and election of subordinate employes of legislature.**—The employes of the senate shall be elected or selected or employed as may be determined by the senate by resolution adopted by the senate after its permanent organization. The doorkeeper of the gallery, reading clerk, pages, and messengers of the house shall be appointed by the speaker. The servants of the house shall be selected by the doorkeeper of the house, with the approval of the speaker. The clerical assistants to the clerk of the house and to the engrossing and enrolling clerks of the house shall be selected by them, respectively, with the approval of the speaker; and the house shall provide by rule or resolution the manner of selecting committee clerks.

(Dec. 14, 1876, p. 51, § 6.)

Jan. 26,
1903, p.
27, § 5.

925. Terms of employment of subordinate employes of legislature.—All the other employes of the senate and house named in the two preceding sections shall hold office at the pleasure of the senate and house, and their employment shall not extend beyond the session of the legislature.

Ib., § 3.

926. (2236, 2237) (53, 55, 54) (52, 54, 53) **Compensation of subordinate employes of the legislature.**—The salary of the comparing clerk of the senate and committee clerks of the house and senate shall be four dollars per day, and that of the assistants to the secretary of the senate and clerk of the house, and the engrossing and enrolling clerk of the senate, and enrolling clerk and engrossing clerk of the house shall be four dollars per day, for the time for which they are actually employed. The compensation of the pages and messengers of the senate and house shall be two dollars per day, and the compensation of the doorkeeper of the gallery of the senate and house shall be three dollars and fifty cents per day, and the compensation of the servants of the senate and house shall be two dollars and fifty cents per day. The compensation of the reading clerk of the house shall be the same as that of the assistant clerk of the house.

927. (2239) (56) (55) **Pay of subordinate officers; how certified and paid.**—The compensation due to the officers and employes hereinbefore named shall be certified by the president of the senate and the speaker of the house of representatives, respectively, to the auditor, who shall issue his warrant therefor.

928. (2240) **Secretary of senate and clerk of house to file papers and furnish copy of journal.**—Within thirty days after

the adjournment of any session of the legislature, the secretary of the senate and the clerk of the house of representatives must file and arrange the papers of their respective houses in the office of the secretary of state, and copy and deliver to the public printer the journals of their respective houses, with proper indexes thereto; and for such services when performed, they shall receive, respectively, the sum of six hundred dollars; and the sum of twelve hundred dollars is appropriated for such services when performed.

As amended, Sept. 18, 1908, p. 241, § 1; Aug. 13, 1907, p. 711, §§ 1 and 2.

The bundle of papers fastened together with paper brad, labeled and filed with the secretary of state, held not to be the journals of the legislature, but only data from which the journal was made up.—*Montgomery Co. v. Gaston*, 126 Ala. 426 (28 So. 497). The journals of the legislature are the bound volumes in which its proceedings are kept and it imports verity.—*Ib.* The phrase "to keep" does not require or authorize the secretary of state to know what the journal contains, nor to revise the same, and he cannot be compelled so to do by mandamus.—*State v. Wilson*, 123 Ala. 259 (26 So. 482).

CROSS REFERENCES.

LEGISLATURE (Political Code)900- 928
LEGITIMATING CHILDREN (Civil Code).....5199-5201
LETTERS, THREATENING (Criminal Code)..... 6218
LEVYING ON COUNTY PROPERTY (Criminal Code)..... 6691
LEVY OF ATTACHMENT (Civil Code)2940-2954
LEVY OF EXECUTION (Civil Code).....4097-4134
LIBEL AND DEFAMATION (Criminal Code).....7338-7341
LIBEL AND SLANDER (Civil Code)3745-3753
LIBRARIAN OF SUPREME COURT (Civil Code).....5971-5982
LICENSE OF FOREIGN CORPORATIONS (Political Code)2401-2412
LICENSES (Civil Code).....2973 et seq., 2361
LICENSE TAX (Political Code)2361, 2362
LICENSE TAX; MUNICIPALITIES (Political Code)1338-1347
LIEN OF ATTORNEYS FOR FEES (Civil Code).....3010-3011
LIEN OF LANDLORD (Civil Code).....4734-4752
LIENS (Civil Code).....4754-4829
LIENS AND EXECUTIONS; FRAUDS AS TO (Criminal Code).....
 7342, 7343, 7423, 7821
LIFE INSURANCE COMPANIES (Civil Code).....4543-4596
LIFE INSURANCE, MUTUAL (Civil Code).....4597-4605
LIGHTHOUSE (Political Code)2427, 2428
LIGHTNING ROD COMPANY (Political Code) 2361
LIMITATION OF ACTIONS (Civil Code).....4830-4863
LIMITATION OF PROSECUTIONS (Criminal Code).....7344-7351
LIMITED PARTNERSHIP (Civil Code).....5265-5289
LIQUORS (Political Code)492-511, 2361
 " (Civil Code)5760-5764
 " (Criminal Code)7352-7382
LIQUORS, LICENSE TO SELL (Civil Code).....5760-5764
LIQUORS; SALES IN DISPENSARIES (Political Code).....228- 289
LITERATURE, OBSCENE (Criminal Code).....7427-7429
LIVERY OF SEIZIN (Civil Code)..... 3364

LIVERY STABLE KEEPER'S LIEN (Civil Code).....	4806-4807
LIVE STOCK AND FENCES (Civil Code).....	4240-4259
LIVE STOCK INSURANCE (Civil Code).....	4606-4610
LIVE STOCK, OFFENSES CONCERNING (Criminal Code).....	6230-6242
LIVE STOCK RUNNING AT LARGE (Civil Code).....	3927-3957
LIVE STOCK SANITARY BOARD (Criminal Code).....	7083
LOAN COMPANIES (Civil Code).....	3597-3612
LOANS (Civil Code).....	3301-3305, 3389-3391
LOBBYING (Criminal Code).....	7386, 7387
LOCAL IMPROVEMENTS, MUNICIPAL (Political Code).....	1359-1420
LOCAL JURISDICTION OF OFFENSES (Criminal Code).....	7224-7232
LOCAL OPTION, PROHIBITION (Political Code)	492- 511
LOCOMOTIVE ENGINEER (Civil Code).....	5473 et seq.
LOGS (Criminal Code).....	7865-7869, 7331-7332
LOST NOTES, BILLS, ETC. (Civil Code).....	2491, 2492
LOST RECORDS OR PAPERS (Civil Code).....	5739-5745
LOTTERY (Political Code)	2361
" (Criminal Code)	6994-7001
LOTS (Civil Code)	6028-6034
LUNATICS (Civil Code).....	4345-4361
LYNCHING AND WHITECAPPING (Criminal Code).....	7388, 7389
MAD DOG (Criminal Code).....	6235
MAGAZINE (Political Code).....	2413, 2427, 1453
MAGISTRATE (Political Code).....	4
MAJORITY (Political Code)	4
MALE (Political Code).....	1
MALT LIQUORS (Political Code).....	t. 2361
MALTREATMENT OF CONVICT OR PRISONER (Criminal Code)....	6608, 6609, 6619
MANDAMUS, PROHIBITION, CERTIORARI, AND OTHER REMEDIAL WRITS OF A SUPERVISORY NATURE (Civil Code)....	4864-4872
MANSLAUGHTER (Criminal Code).....	7090-7093
MAPS AND PLATS OF COUNTY (Political Code).....	157
MAPS, PLATS, OR SURVEYS OF TOWNS (Civil Code).....	6028-6034
MARINE INSURANCE COMPANIES (Civil Code).....	3481, 4589-4593
MARINES (Political Code)	295
" (Civil Code)	6178
MARK (Political Code).....	1
" (Civil Code)	3355
MARKERS (Political Code)	400, 401
MARKET HOUSES; BUTCHERS; OFFENSE (Criminal Code).....	6419
MARKETS, MUNICIPAL (Political Code).....	1279
MARKS AND BRANDS (Civil Code)	4873-4876
" (Criminal Code)	6240, 6675
MARRIAGE (Civil Code).....	4877-4891, 2498
" (Criminal Code).....	7127, 7128, 6210, 6211, 7390-7393, 7421, 7422
MARRIAGES, BIRTHS, AND DEATHS (Civil Code).....	3978
MARRIAGE SETTLEMENTS (Civil Code).....	3388
MARRIED WOMEN (Civil Code).....	4486-4504
MARSHAL OF SUPREME COURT (Civil Code).....	5971-5982
MASONS (Civil Code).....	4562, 3571
MASTER AND APPRENTICE (Civil Code).....	2896-2907
MASTER AND SERVANT (Civil Code).....	3910-3913
" (Criminal Code)	6845-6857
MASTER IN CHANCERY (Civil Code).....	3070-3086, 6054 et seq.
MATERIALMAN'S LIEN (Civil Code)	4754-4784
MAXIMUM RATES (Railroads) (Civil Code).....	5565-5592

MAYHEM (Criminal Code).....	7394
MAYOR OF MUNICIPALITIES (Political Code).....	1172-1191
MAYOR OR RECORDERS' COURTS (Political Code).....	1213-1229
MEAL; SALE OF, REGULATED (Political Code)	2439
" (Criminal Code)	6620-6622
MEASURES (Civil Code).....	2429-2439
" (Criminal Code)	7507, 7876
MECHANICS' LIEN (Civil Code).....	4754-4783
MEDICAL ASSOCIATION (Political Code).....	698 et seq.
MEDICAL BOARD (Political Code).....	698 et seq.
MEDICINE AND SURGERY (Criminal Code).....	7564
MENAGERIE (Political Code).....	2361
MENNONISTS (Civil Code).....	4833
MERCANTILE AGENCY (Political Code).....	2361
MERGER, CORPORATIONS (Civil Code)	3502-3508
MERGING MUNICIPALITIES (Political Code).....	1126-1132, 1156-1163
MERRY-GO-ROUNDS (Political Code).....	2361
MIDWIFE (Criminal Code).....	7050, 7051
MILEAGE BOOKS; INTERCHANGEABLE (Civil Code).....	5593-5597
MILE-POST, GUIDE-BOARD, ETC. (Criminal Code).....	7395
MILITARY (Political Code).....	929- 998
MILITARY; OFFENSES CONCERNING (Criminal Code).....	7396-7417

CHAPTER 29.

MILITIA. 929-998.

SECTION.

- 929. Alabama national guard; the governor commander-in-chief.
- 930. Staff of commander-in-chief.
- 931. Duties of adjutant-general.
- 932. Salary of adjutant-general.
- 933. Report of adjutant-general.
- 934. Duties of assistant adjutant-general.
- 935. Duties of staff officers.
- 936. What constitutes regiment of infantry, cavalry, or artillery.
- 937. Field officers, what constitutes.
- 938. Officers, commissioned and non-commissioned, appointed by colonel.
- 939. Squadron or battalion.
- 940. Officers appointed by major.
- 941. Duty of senior officer.
- 942. Line officers.
- 943. Additional officers.
- 944. Noncommissioned company officers of troop or battery.
- 945. Number of enlisted men in company.
- 946. Company, how organized.
- 947. Company, assignment to regiment.
- 948. Liability of officer for losses or casualties to property.
- 949. Commutation of expenses; payment of.
- 950. Expenses of companies; how paid.
- 951. Drills; when and how conducted.
- 952. Dress parade, and fine.
- 953. Veteran's badge.
- 954. Companies, troops, etc., leaving county or state.
- 955. Musicians; band secured.
- 956. Election of officers.
- 957. Vacancies; how filled.
- 958. Notice of election of officers.
- 959. Certificate of election.
- 960. Resignation of officer.
- 961. Transfer of officer.
- 962. Rules for admission or discharge of members.
- 963. Discharges; how made.
- 964. Term of enlistment.

SECTION.

- 965. Discipline prescribed.
- 966. Company, troop, battery, etc., how disbanded.
- 967. Uniform.
- 968. Arms and equipments.
- 969. Repository for military property.
- 970. Clerk of adjutant-general; duties and salary of.
- 971. Officers; how commissioned.
- 972. Officers; reduction to ranks.
- 973. Officer or enlisted man; discharge of.
- 974. Military offenses enumerated and defined.
- 975. Offenses of officers.
- 976. Officers' delinquencies.
- 977. Triable offenses of enlisted men.
- 978. Delinquencies of enlisted men.
- 979. Military courts, courts martial and of inquiry; jurisdiction and conduct of.
- 980. Findings of court martial; how executed.
- 981. Expenses and costs in military cases.
- 982. Expenses of persons traveling in obedience to orders of government.
- 983. Medical supplies.
- 984. Exemption from poll tax and jury duty.
- 985. Pay of Alabama national guard when in service.
- 986. Guardhouse, preservation of order.
- 987. Sale of liquors prohibited.
- 988. Powers of commanding officer to close up liquor houses and other places.
- 989. Annual encampment.
- 990. Deserters.
- 991. Articles of war.
- 992. Penalty for failure to attend encampment.
- 993. Brigade; formation of.
- 994. Powers of brigadier-general.
- 995. Payment of brigade staff.
- 996. Military board; its duties.
- 997. When military board meets.
- 998. Retired list; who are eligible.

Amended
Feb. 15,
1907, p.
44, § 1.
(r. e. c.)

929. (2352) Alabama National Guard; the governor commander-in-chief.—The active volunteer organized military

forces of the State of Alabama shall constitute and be known as the Alabama National Guard, and may consist of not more than three regiments of infantry, one regiment of cavalry, one regiment of artillery, and one company of signal troops, and the governor of the state shall be the commander-in-chief thereof. The organization, armament, and discipline of the Alabama National Guard shall be the same as that which is now or may be hereafter prescribed for the regular and volunteer armies of the United States. The commander-in-chief, from time to time, shall make and publish such orders as may be necessary to conform such Alabama National Guard in organization, armament, and discipline, to that prescribed for the army of the United States, and such orders, when duly made and published, shall have the force and effect of law. The governor, in his discretion, may organize a naval reserve in accordance with the rules and regulations prescribed therefor by the United States government, and may commission the officers thereof. The governor shall have the power, whenever the good of the service requires it, to suspend any commissioned officer, or to remove and cancel his commission.

Original statute regulating militia passed Dec. 22, 1814.—Toulmin's Digest, pp. 586 et seq. (Aikin's Digest, pp. 308-323; Feb. 18, 1897, p. 1308, § 1.)

930. (2853) Staff of commander-in-chief.—The staff of the commander-in-chief shall consist of the following officers, to be appointed by him and commissioned as officers of the Alabama National Guard, holding office at his pleasure, except as may be otherwise provided: One adjutant-general, who shall be chief of staff; one inspector-general, one quartermaster-general, each with the rank of brigadier-general; one judge advocate-general, who shall be a member of the supreme court bar of at least five years' standing; one surgeon-general, who shall be a graduate of some incorporated school of medicine and of at least five years' practice; one chief of engineers, one chief of ordnance, one paymaster-general, one commissary-general of subsistence, one chaplain, one assistant adjutant-general, one assistant inspector-general, one assistant quartermaster-general, and four aides-de-camp, each with the rank of colonel of cavalry; and four aides-de-camp, each with the rank of lieutenant-colonel of cavalry.

Amended
Feb. 15,
1907, p.
44, § 2.

(Feb. 18, 1897, p. 1308, § 2.)

931. (2854) Duties of adjutant-general.—The adjutant general is chief of staff to the governor; he shall preserve the arms and other military stores of the state, and distribute them to the national guard at the expense of the state, keep a roster of all the officers of the Alabama National Guard, and keep on file in his office all reports made to him. He shall, as often as

Feb. 23,
1899, p.
136, § 3.

may be necessary, cause so much of the laws relating to the volunteer forces of the state as may be enforced to be printed, bound, and distributed, a copy to each commissioned officer, and prepare and publish all necessary blank books, forms, notices, and stationery, and furnish them to the national guard at the expense of the state, and the state auditor shall draw a warrant on the state treasurer therefor. The adjutant-general shall perform such other duties as may be required of him by the commander-in-chief. He shall visit and inspect each company of infantry, cavalry, and artillery at least once in each year, and report to the commander-in-chief the condition of the arms, and equipment and numerical strength of said company, and make such recommendations as he thinks proper in regard to same.

(Feb. 18, 1897, p. 1308, § 3.)

- Feb. 23, 1899, p. 136, § 3.** **932. Salary of adjutant-general.**—The adjutant-general shall receive a salary of one hundred and twenty-five dollars per month, payable monthly.
- Ib.** **933. (2854) Report of adjutant-general.**—The adjutant-general must, ten days before each session of the legislature, report to the governor the number and condition of the state guard and of the public arms and accoutrements of the state.
- Ib.** **934. (2857) Duties of assistant adjutant-general.**—The assistant adjutant-general shall assist the adjutant-general, and in his absence, perform all his duties.
- Ib.** **935. (2854) Duties of staff officers.**—The several staff officers shall perform the same duties, as nearly as the circumstances of the case will permit, as are performed by the staff officers of like rank in the United States Army, and any and all such other duties as may be required of them by the commander-in-chief.
- Mar. 5, 1903, p. 156, § 1.** **936. (2858) What constitutes regiment of infantry, cavalry, or artillery.**—Each regiment of infantry, cavalry, or artillery shall consist of not less than eight nor more than twelve companies, troops, or batteries, and a hospital corps not to exceed twenty-five men, of whom one may be sergeant and five may be corporals.
- Ib.** **937. (2858) Field officers; what constitutes.**—The field officers of the regiment shall consist of one colonel, one lieutenant-colonel, and three majors, who shall be elected by the line officers of the regiment by ballot or in such manner as may be determined by the governor in his discretion, whose term of office shall be for four years, and until their successors are duly qualified.
- Ib.** **938. (2858) Officers, commissioned and non-commissioned, appointed by colonel.**—The colonel of each regiment shall

appoint his commissioned and non-commissioned staff officers as follows: One surgeon of the rank and grade of major, and one adjutant, one chaplain, one quartermaster, one commissary of subsistence, one inspector of rifle practice, one ordnance officer, one inspector of the guard, and two assistant surgeons, each of the rank and grade of captain; and the non-commissioned staff as follows: One sergeant-major, one quartermaster sergeant, one sergeant as assistant to instructor of the guard, one trumpeter, one band leader, one commissary sergeant, one ordnance sergeant, and three hospital stewards, who shall have the grade of first sergeant, and hold office subject to the pleasure of the colonel. The commissioned officers shall be commissioned as in case of other commissioned officers upon certificate of appointment from the colonel, and shall hold office for the term of the officer making the appointment, or at the pleasure of such officer, and the colonel may also detail a color-bearer, and such clerks for the adjutant's office as he may deem necessary.

939. Squadron or battalion.—Each squadron or battalion shall consist of not more than four nor less than two companies, troops, or batteries. Mar. 5, 1903, p. 156, § 1.

940. Officers appointed by major.—When such squadron or battalion is not a part of a regiment, the major may appoint an adjutant surgeon, quartermaster and commissary of subsistence, with the grade of captain, a sergeant major and quartermaster sergeant, trumpeter, hospital steward, and commissary sergeant, with the grade of second sergeant. 1b.

941. Duty of senior officer.—Whenever two or more companies are stationed in the same town or locality, the senior field officer in said town or locality shall designate a time in each month when all of said companies shall hold their monthly muster, and the time so designated shall be conformed to by all the company commanders; otherwise, they shall forfeit the allowance for that quarter. 1b.

942. (2859) Line officers.—The line officers of each company, troop, or battery, shall consist of a captain, one first lieutenant, and one second lieutenant, who shall be elected by the non-commissioned officers and enlisted men of such company, troop, or battery, and who shall hold office for a term of three years, and until their successors are duly qualified. Feb. 23, 1899, p. 136, § 5.

(Feb. 18, 1897, p. 1303, § 8.)

943. (2859) Additional officers.—The governor may, in his discretion, authorize any company or troop of the Alabama National Guard to elect, in addition to the other commissioned officers, an additional second lieutenant; and a battery to elect one first lieutenant and one second lieutenant in addition to the 1b.

other commissioned officers, who shall be elected, commissioned, and qualified as in the case of other commissioned officers.

Feb. 23,
1869, p.
138, § 5.

944. (2859) Non-commissioned company officers of troop or battery.—The company, troop, or battery commanders shall appoint the non-commissioned officers as follows: For company, one first sergeant, four sergeants, one quartermaster sergeant, and six corporals; for troop, one first sergeant, four sergeants, one quartermaster sergeant, one veterinary sergeant, one guidon sergeant, one trumpeter, six corporals; for battery, one first sergeant, four sergeants, one quartermaster sergeant, one veterinary sergeant, one guidon sergeant, one trumpeter, and eight corporals.

- 1b. **945. (2860) Number of enlisted men in company.**—Each company, troop, or battery shall, in addition to its commissioned officers, have the following number of enlisted men who must be over eighteen years of age: For company or troop, not less than forty nor more than one hundred and six; for battery, not less than forty nor more than one hundred and six; and should the number at any time be below the minimum required by this section, then such company, troop, or battery, shall be declared by the commander-in-chief inefficient for such service, and must be disbanded.

(Feb. 18, 1897, p. 1308, § 8.)

- 1b. **946. (2861) Company; how organized.**—Upon the petition of forty or more men liable to military duty, addressed to the adjutant general, setting forth the residence of the petitioners, and that they desire to form a military company, troop, or battery, the governor may, in his discretion, order any officer of the state guard to organize the petitioners into a company, troop, or battery, and said officer must superintend at election by ballot at a time and place selected by such officer. The officer elected to command such troop, company, or battery, must forthwith appoint from his enlisted men the non-commissioned officers, as provided in this chapter; said non-commissioned officers shall receive a certificate or warrant of their grade, signed by the commanding officer, countersigned by the adjutant of the regiment or squadron or battalion, if not part of a regiment.

(Feb. 18, 1897, p. 1308, § 8.)

- 1b. **947. (2861) Company; assignment to regiment.**—After a company, troop, or battery is duly organized, it must be assigned to one of the regiments, squadrons, or battalions of the Alabama National Guard, and the officers commissioned and the adjutant-general shall, from the undistributed arms

of the state, issue to the commanding officer of the company, at the expense of the state, upon his giving satisfactory bond for the safe custody and return thereof, suitable arms and equipments and camp equipage, and may prescribe by general or special order, rules for the use and preservation thereof.

948. (2862) Liability of officer for losses or casualties to property.—No commissioned officer giving bond for the safe keeping of arms or other public property is liable for loss by fire, riot, or insurrection, or other casualty of the service, unless held liable by a board of survey to be appointed by, and whose finding is approved by, the governor. Feb. 23,
1899, p.
186, § 5.

949. (2863) Commutation of expenses; payment of.—In ^{1b} commutation of the expenses which each active company of the Alabama National Guard bears in providing drill rooms, and a place for the safe keeping of arms and ammunition, and in defraying the necessary expenses, there shall be allowed to the commanding officer of each company, troop, or battery, the sum of sixteen dollars and sixty-six and two-thirds cents per month, payable quarterly, if the company, troop, or battery number at least twenty-five uniformed privates and non-commissioned officers, at such parades and drills at which not less than twenty-five, rank and file, attend, and the governor may prescribe in general orders not less than one public or private drill a month, and otherwise keep in such state of efficiency as the governor may deem necessary to constitute an active military organization. To secure such allowance for any quarter, the commanding officer must make affidavit before any officer authorized to administer oaths that his company, troop, or battery during the time for which the allowance is claimed, had the number of drills and parades required, with the number of men prescribed therein, and was during such period an active, efficient military organization. Such claim so verified shall be forwarded to the commanding officer of the regiment to which the company, troop, or battery is attached, and by him to the adjutant-general, with such recommendation as he deems proper. If satisfied that it is just, the governor shall approve the same and direct the auditor to draw his warrant for such amount in favor of the commanding officer of the company, troop, or battery.

(Feb. 18, 1897, p. 1308, § 8.).

950. (2864) Expenses of companies; how paid.—The ^{1b} county commissioners in each county may, in their discretion, appropriate a sufficient sum, not otherwise appropriated, to pay the necessary expenses of the companies, troops, or batteries of the Alabama National Guard located in their respec-

tive counties, not to exceed the sum of twenty-five dollars per month for such expenses of any one company.

(Feb. 18, 1897, p. 1308, § 8.)

Feb. 23,
1899, p.
186, § 6.

951. (2865) Drills; when and how conducted.—The commanding officer of any company, troop, or battery shall order at least one drill per month, and officers and members failing, without good excuse, to attend such drill, shall be subject to a fine in the discretion of the company, troop, or battery court-martial, not exceeding twenty dollars.

(Feb. 18, 1897, p. 1308, § 8.)

952. (2865) Dress parade, and fine.—The commanding officer of a regiment, squadron, or battalion, when two or more companies, troops, or batteries are stationed at the same place, may order a squadron or battalion drill or dress parade once in each month and on Memorial Day, and on the occasion of the funeral of any officer or member of the national guard, and any officer of the national guard failing without good excuse to obey such order shall be fined in the discretion of the regimental, squadron, battalion, or summary court-martial, not exceeding twenty dollars, and may be dishonorably dismissed from the service of the state.

953. (2866) Veteran's badge.—Any officer, non-commissioned officer, or private who shall have faithfully served in the national guard in any grade for six consecutive years shall have conferred upon him the right to wear a veteran's badge, which shall be prescribed by the governor.

(Feb. 18, 1897, p. 1308, § 8.)

954. (2867) Companies, troops, etc., leaving county or state.—No company, troop, or battery shall go out of the county in which it is stationed as a military organization except by permission of the regimental squadron or battalion commander, or the governor; nor shall any company, troop, or battery, or regiment, squadron, or battalion go out of the state, except by permission of the governor.

(Feb. 18, 1897, p. 1308, § 8.)

Mar. 5,
1901, p.
201, § 2.

955. (2869) Musicians; band secured.—The commanding officer of a regiment, or a squadron, or battalion not a part of a regiment, may organize and uniform, at the expense of the regiment, or squadron, or battalion, a band of musicians, to be under his direction and command, who, while on duty, shall be subject to all laws and regulations for the government of the Alabama National Guard, and they shall be mustered in as prescribed by this chapter for enlisted men, and shall be counted in the aggregate force, and such commanding offi-

cer may, in his discretion, disband such band and revoke the warrant of the band leader. Such band, when duly organized, shall be entitled to receive, in the same manner as companies, the sum of sixteen dollars and sixty-six and two-thirds cents per month, payable quarterly, said allowance to be drawn for and paid in the same manner and under the same regulations as are provided for companies, troops, or batteries; but no band shall be entitled to the said allowance unless it shall consist of not less than seventeen equipped and enlisted musicians, and shall make and certify a monthly muster with an attendance of not less than ninety per cent of its membership.

(Feb. 18, 1897, p. 1308, § 10.)

956. (2870) **Election of officers.**—No officer, non-commissioned officer, or enlisted man shall be entitled to vote at any election for commissioned officers of the Alabama National Guard who has been absent for four consecutive monthly musters of the company, troop, or battery, of which he may be a member; provided, that nothing in this section shall apply to field officers. Feb. 28,
1899, p.
186, § 7.

957. (2871) **Vacancies; how filled.**—Upon the expiration ib., § 8. of the term of office of any field officer or any vacancy occurring by reason of death, resignation, removal, or other cause, the governor shall direct the commanding officer of a regiment, squadron, or battalion, if not a part of a regiment, to elect such field officer, under such rules and regulations as provided by this chapter, of which action at least fifteen days' notice must be given to the commanding officers of the companies, troops, or batteries in which regiment, squadron, or battalion said election is to be held, and in event there is a tie vote for any officer, the adjutant-general shall cast the deciding vote for such field officer.

958. (2871) **Notice of election of officers.**—Upon the expiration ib. of the term of office of any line officer, or whenever there is a vacancy by reason of death, resignation, removal, or other cause, the colonel, upon orders from the governor, shall order the company to elect such officer in the manner required by this chapter, and must give at least ten days' notice of such election by orders published at the armory of said company, troop, or battery, where said election is to take place.

959. (2871) **Certificate of election.**—A certificate must be ib. forwarded through military channels to the commander-in-chief stating that such elections as required by this chapter were held in accordance with the order received, which certificate must be accompanied by such oath of office as may be prescribed by the adjutant-general.

Feb. 23,
1899, p.
136, § 8.

960. (2872) Resignation of officer.—Whenever the resignation of any officer is forwarded and is approved by the commander-in-chief, such officer loses his grade if elected his own successor; but if such officer is elected to another organization, he may accept such second election and be commissioned accordingly, taking grade from the date of his original commission, but the acceptance of the second election shall vacate the office to which he was first elected.

(Feb. 18, 1897, p. 1308, § 12.)

1b. **961. (2873) Transfer of officer.**—Any non-commissioned officer or enlisted man may be transferred at the request of his company, troop, or battery commander, to any other company, troop, or battery upon the approval of the adjutant-general.

(Feb. 18, 1897, p. 1308, § 12.)

1b. **962. (2874) Rules for admission or discharge of members.**—Each company may adopt such rules as to admission of members as it deems best, and may provide for the discharge of its members by rules or by-laws; provided, such rules or by-laws are first approved by the adjutant-general, and any person discharged in accordance with such rule or by-law, after the same shall have been approved by the adjutant-general, ceases to be a member of the Alabama National Guard.

1b. **963. (2875) Discharges; how made.**—No non-commissioned officers nor enlisted men shall be discharged from the Alabama National Guard except as provided in this chapter, or upon the order of the governor, or by application therefor approved by his company and regimental commander.

1b. **964. (2876) Term of enlistment.**—The term for enlistment in the Alabama National Guard shall be for three years, and the following oath of enlistment must be administered by the commanding officer of any company, troop, or battery, to persons enlisting: "I do solemnly swear that I will support the constitution of the State of Alabama, and obey all lawful orders of my superior officers while I remain a member of the Alabama National Guard."

11., § 9. **965. (2877) Discipline prescribed.**—The system of discipline and exercise of the Alabama National Guard shall conform generally to that of the army of the United States as is now or may hereafter be prescribed by congress, and to all provisions of the laws of the United States, except as otherwise provided in this chapter, or may hereafter be provided for by the laws of this state.

966. (2878) Company, troop, battery, etc.; how disbanded. Feb. 23, 1899, p. 136, § 10.
 —Any company, troop, or battery of the Alabama National Guard may be disbanded in the discretion of the commander-in-chief, upon a petition signed by a majority of such company, troop, or battery, approved by the regimental commander, or the commander of the squadron or battalion not a part of a regiment, or when the commanding officer of any regiment, squadron, or battalion, not a part of a regiment reports that such company, troop, or battery is inefficient and ought to be disbanded for the good of the service, or whenever a board of officers who shall be appointed by the governor and shall consist of not less than three from such regiment, squadron, or battalion not part of a regiment, shall report that it would be for the good of the service to disband such organization, or when in the opinion of the governor it would be for the good of the service to disband such organization.

967. (2879) Uniform.—The uniform of officers, non-commissioned officers, and enlisted men shall conform in style and material to that of the United States army, excepting as follows: The collar ornaments of the undress uniform of commissioned officers shall be the letters "Ala." embroidered in gold bullion instead of the letters "U. S." 1b. § 11.

968. (2880) Arms and equipments.—The governor may in his discretion issue public arms and equipments received from the United States to chartered institutions of learning which adopt a military system, upon bond, with sureties, for the preservation and return thereof when called for by him, and upon such terms as he may require. 1b.

969. (2882) Repository for military property.—The governor shall, whenever necessary, designate a repository for the undistributed military property of the state. 1b.

(Feb. 18, 1897, p. 1308, § 15.)

970. (2882) Clerk of adjutant-general; duties and salary of. Feb. 23, 1899, p. 136, § 11: as amended Aug. 6, 1907, p. 581, § § 1 and 2.
 —The governor shall appoint a competent person whose duty it shall be to keep such property in serviceable order, to have mended at the expense of the state such small arms and property of the state as may need repair. Such appointee shall be the clerk of the adjutant-general and shall receive a salary of twelve hundred dollars, to be paid monthly, as the salary of state officers is paid, and shall execute a bond in the sum of one thousand dollars, payable to the state, for the faithful performance of his duties, to be approved by the adjutant-general and renewable at his discretion.

971. (2883) Officers; how commissioned.—All officers shall be commissioned by the commander-in-chief, and no person Sept. 30, 1903, p. 265, § 2.

shall be commissioned in the Alabama National Guard who is not a citizen of this state or who is under the age of twenty-one years. The governor may, in his discretion, before a commission is issued, order any officer of the Alabama National Guard for examination before a military board, which shall be appointed by the governor, to consist of not less than three members, who may compel the attendance of witnesses, administer oaths, and take testimony, as may be done by general courts-martial, touching the applicant's capacity, general qualifications, and knowledge of military affairs, proportionate to the requirements of the office for which he has been selected; and if such examining board shall report adversely to such applicant, he shall not be commissioned as an officer. The commander-in-chief may also convene examining boards to determine the fitness of officers for promotion; and also, whenever to him it appears advisable, or upon the request of any superior commanding officer, may order any officer before a board for examination as to his fitness for military service, and upon report of the board, if adverse to the officer, may declare his commission vacated; and if any officer so ordered before a board shall neglect or refuse to appear, the commander-in-chief may, upon report to him of such refusal or neglect, vacate the commission of the officer. The report of such examining board must be forwarded through the proper military channels to the commander-in-chief; but nothing in this section shall apply to the staff of the commander-in-chief.

(Feb. 18, 1897, p. 1308, § 16.)

Feb. 23,
1899, p.
136, § 13.

972. (2884) Officers; reduction to ranks.—The commanding officer of any company, troop, or battery may reduce a non-commissioned officer to the ranks for cause satisfactory to himself and approved by the regimental, squadron, or battalion commander, not part of a regiment. The report of such reduction and the reason therefor must be forwarded through military channels to the adjutant-general.

(Feb. 18, 1897, p. 1308, § 17.)

ib., § 14.

973. (2885) Officer or enlisted man; discharge of.—Any officer, non-commissioned officer, or enlisted man who cannot after due diligence be found, or who shall remove his residence from the state, or to such distance from the armory of his organization as to render it impracticable for him to perform military duty, or who shall be convicted of a felony, may be discharged by the commander-in-chief upon the request of the commanding officer of the regiment, squadron, or battalion not part of a regiment, with the approval of the governor.

974. Military offenses enumerated and defined.—A military offense within the meaning of this chapter includes any delinquency or violation of the laws, rules, regulations, or orders governing the militia or National Guard of this state, as well as the laws or regulations governing the army and navy of the United States, as far as applicable to the militia or National Guard of this state, the offenses hereinafter enumerated shall be defined as similar offenses are defined in the articles of war, laws and regulations governing the United States army.

Sept. 30,
1908, p.
265, § 8.

975. Offenses of officers.—Commissioned officers may be tried by courts-martial for the following offenses, and on conviction thereof may be sentenced to be cashiered, and shall thereby become incapacitated from holding any military commission, dismissed, fined to any amount not exceeding one hundred dollars and costs of prosecution, or, in default of payment thereof, imprisoned in a county jail not exceeding sixty days, or reprimanded, or to all or either of said fines and penalties: First, conduct unbecoming an officer and a gentleman. Second, drunkenness on duty. Third, neglect of duty, or leaving his post or command. Fourth, disobedience of orders. Fifth, oppression of any under his command. Sixth, conspiracy or attempt to resist or evade lawful orders, or advising any person to do so. Seventh, insult or disrespect to a superior officer in the line of military duty. Eighth, making a false certificate, account, muster, or return. Ninth, conduct to the prejudice of good order and military discipline. Tenth, embezzlement or misappropriation of military or company funds, or wrongful conversion of company, state, or government property. Eleventh, wrongfully disclosing, or making improper use of, a watchword or parole. Twelfth, desertion or cowardice. Thirteenth, wasting or destroying company, state, or government property. Fourteenth, any other violation of the laws, rules, regulations, and orders governing the National Guard, as well as the articles of war governing the United States army as far as consistent with this chapter.

976. Officers' delinquencies.—Officers may be tried by courts-martial and fined not exceeding ten dollars and costs of prosecution, or in default of payment thereof, imprisoned in a county jail not exceeding five days, for non-attendance or tardiness at any drill, parade, each day of encampment, inspection, or other duty ordered by competent authority.

977. Triable offenses of enlisted men.—Enlisted men may be tried by courts-martial for the following offenses: First, willful disobedience of orders. Second, disrespect to superiors. Third, mutiny. Fourth, desertion. Fifth, drunkenness

on duty. Sixth, neglect of duty. Seventh, making false report. Eighth, fraudulent enlistment. Ninth, conduct prejudicial to good order and military discipline. Tenth, violation of any provision of the military code of rules and regulations of the National Guard. On conviction, such enlisted men may be sentenced to be dishonorably discharged with loss of time served, reprimanded, and if a non-commissioned officer, reduced to the ranks, or fined to an amount not exceeding fifty dollars and costs of prosecution, or, in default of payment thereof, imprisoned in a county jail not exceeding thirty days, or all or either of such fines and penalties.

Sept. 30,
1903, p.
286, § 3.

978. Delinquencies of enlisted men.—Enlisted men may be tried by court-martial, or summary court, for the following offenses: First, absence without leave from or tardiness at any drill, parade, encampment (each day), meeting for instruction, or other duty ordered by competent authority. Second, disobedience of standing orders. Third, neglect of duty. Fourth, absence from inspection. Fifth, injuring or destroying uniforms, arms, equipments, or other company, state, or government property, wearing the same when not on duty without permission of commanding officer. Sixth, conduct unbecoming a soldier, or prejudicial to good order or military discipline. Seventh, disrespect to superiors. On conviction, any such enlisted man may be sentenced to be dishonorably discharged, reprimanded, reduced, or fined not exceeding ten dollars and costs of prosecution, or in default of payment thereof, imprisoned in a county jail not exceeding five days, or all or either of such fines and penalties.

1b.

979. (2886) Military courts, courts-martial and of inquiry; jurisdiction and conduct of.—The military courts of this state shall be: First, courts of inquiry. Second, general courts-martial. Third, regimental courts-martial. Fourth, sundry courts which are of two kinds: (a) Field officer's courts; (b) company courts. Courts of inquiry shall consist of from one to three officers, and may be instituted by the commander-in-chief for the purpose of investigating the conduct of any officer or any facts made the subject of military complaint. Such court of inquiry shall, without delay, report a statement of facts, and when required, the evidence adduced and an opinion thereon to the commanding chief, who may, in his discretion, thereupon order a court-martial for the trial of the officer whose conduct has been inquired into. General courts-martial shall be ordered by the commander-in-chief, and shall consist of not less than five nor more than thirteen officers, exclusive of the judge advocate; but at all times a majority of the court, if possible, must be of a grade at least equal to that of the accused. Such courts shall have jurisdiction in

all cases arising under the military laws, rules, regulations, or orders in force in this state, and may inflict any punishment authorized by the provisions of this chapter.

Regimental courts-martial shall consist of three officers, two of whom shall constitute a quorum, and shall be ordered upon approval of the governor by the commanding officer of a regiment of infantry or battalion of artillery or squadron of cavalry, for the trial of officers and enlisted men in his command. The jurisdiction of a regimental court-martial shall extend to all military offenses, but it shall not inflict a punishment exceeding a fine of fifty dollars or imprisonment for a period exceeding thirty days, besides the costs of prosecution and dishonorable discharge, with loss of time served, if an enlisted man, or dismissal, if an officer, all or either of which the court may impose at its discretion.

Summary courts shall consist of one officer, for the trial of enlisted men, and may be designated as field officers' courts and company courts respectively, as hereinafter provided. Their jurisdiction shall extend to all offenses cognizable before regimental courts-martial; and they may inflict punishment not exceeding the fine of ten dollars and costs of prosecution, or imprisonment not exceeding five days, besides dishonorable discharge with loss of time served, at the discretion of the court.

The officer second in rank present for duty, with each regiment of infantry or battalion of artillery or squadron of cavalry, shall constitute the field officers' court for the trial of enlisted men in such regiment or battalion or squadron.

The officer second in rank present for duty with each company or battery shall constitute the company court for the trial of enlisted men in such company or battery.

All laws, rules, and regulations governing the army of the United States, relating to courts-martial and the trial and punishment of military offenses, shall apply to and in all things govern the militia and National Guard of this state when in actual service, in time of war, insurrection, invasion, or riot or public danger; otherwise they shall be in force as far as consistent with this chapter.

The proceeds of all fines shall be paid to the captain of the company or battery of which the accused is a member, and if the accused is a regimental officer or non-commissioned officer, to the commanding officer of such organization, for the benefit of the military fund of such company, regiment, or organization, and all the costs of prosecution shall, in the first instance, be paid out of such fund; and regimental com-

manders may, by an order, compel such payment when the company fails or neglects to do so within a reasonable time.

(Feb. 18, 1897, p. 1308, § 19.)

Sept. 30,
1903, p.
265, § 3.

980. (2886) Findings of court-martial; how executed.—No finding of any court-martial shall be executed until approved by the commander-in-chief, and whenever the finding of a court-martial is so approved the commander-in-chief shall cause the proper orders to be issued to the sheriff of the county in which such court is held to carry the finding of the court into effect in such manner as provided in civil cases, and if any person is sentenced to imprisonment in the county jail, the commander-in-chief shall order the commanding officer of such person to cause his arrest and delivery to the jailor of the nearest jail, to be therein confined for the term of the sentence.

1b.

981. (2886) Expenses and costs in military cases.—All expenses incurred, including payment of one stenographer, witnesses, who shall be allowed the same fees as in civil cases, and officers of the court, who shall be paid one-half of the pay to which officers of the like grade are entitled by law to receive in the United States army, shall be paid by warrant on the auditor, upon the approval of the commander-in-chief. The proceedings of all courts-martial shall be in accordance with the United States army regulations or customs of service prevailing in the United States army. Courts-martial may subpoena any witness residing within one hundred miles of the place where the court is sitting, to appear and testify before it; and the sheriff, on receiving any subpoena issued by direction of a court-martial and signed by the judge advocate thereof, shall make service and return of service as provided by law in civil cases.

Feb. 23,
1899, p.
136, § 16.

982. (2887) Expenses of person traveling in obedience to orders of government.—Any person traveling in obedience to the orders of the governor shall be paid all actual expenses incurred in the performance of such duty, and the governor shall prescribe rules and regulations for the presentation, verifying, and paying of all expenses authorized by this chapter, and upon his direction in writing to the state auditor, he shall draw his warrant in favor of such person for the amount due him as approved by the governor.

(Feb. 18, 1897, p. 1308, § 20.)

1b., § 17.

983. (2888) Medical supplies.—The surgeon of each regiment may purchase, with the approval of the commander-in-chief, at the expense of the state, all necessary medicines, bandages, surgical instruments, etc., that may be necessary

for the proper taking care of the troops while in active service, and for the expense so contracted such surgeon shall file his claim with the adjutant-general, not later than three months after the accrual of such expense, and the state auditor shall at once draw a warrant on the treasurer for the payment of the same.

(Feb. 18, 1897, p. 1308, § 21.)

984. (2889) Exemption from poll tax and jury duty.—Feb. 23, 1899, p. 136, § 18. Every officer, commissioned or non-commissioned, musician, and private of the Alabama National Guard is exempt from poll tax, road duty, street tax, and jury duty, during his active membership, any local or special laws to the contrary notwithstanding. The commanding officer of each troop, or battery, shall furnish each member of his command with a certificate of membership, as may be prescribed by the adjutant-general, signed by each commanding officer, which shall prove such exemption in any court, but such certificate shall be revoked whenever the holder is absent from four consecutive drills or parades, without good excuse, and which shall be good only during the calendar month for which it bears date. The commanding officer of a regiment, squadron, or battalion shall furnish a similar certificate to each of his staff and non-commissioned staff and musicians.

(Feb. 18, 1897, p. 1308, § 22.)

985. (2890) (176) Pay of Alabama National Guard when in service.—Ib., § 19. All officers of the Alabama National Guard ordered into the service of the state to aid in the enforcement of the laws thereof, shall receive one-half of the pay and allowance which officers of like rank in the United States army are entitled by law to receive, and non-commissioned officers and privates shall receive double the pay and the same allowance provided by law for the same rank of non-commissioned officers and men in the United States army.

(Mar. 1, 1883, p. 103, § 22.)

986. (2891) (177) Guardhouse, preservation of order.—Ib., § 20. The commanding officer of troops in camp, or in other active service may establish a guardhouse. In such guardhouse he may incarcerate any non-commissioned officer or private, or any non-commissioned officer refusing to submit to arrest, and any civilian guilty of drunkenness, breach of the peace, disorderly conduct in camp, or within one-eighth of a mile thereof. The commanding officer may cause the removal from the camp, and the grounds within one-eighth of a mile of its boundary, of any drunk or disorderly or disreputable person. If such person returns to such limits without the permission

of the commanding officer, or if he resists removal, he may be confined in the guardhouse until he submits to leave, or he may be turned over to a civil officer.

(Mar. 1, 1883, p. 103, § 36.)

Feb. 23,
1899, p.
136, § 20.

987. Sale of liquors prohibited.—The commanding officer shall prevent the sale or giving away of spirituous, vinous, or malt liquors within the camp, or one-eighth of a mile thereof. He may use the whole force at his command for the proper police of his camp and the enforcement of order and discipline.

Ib., § 21.

988. (2892) Powers of commanding officer to close up liquor houses and other places.—Whenever any part of the Alabama National Guard are actually on duty by order of the governor or other civil magistrate, to aid in the enforcement of the laws, the commanding officer of such troops may order the closing of any place where intoxicating liquors, arms, ammunition, dynamite, or other explosives are sold, and forbid the selling, bartering, lending, or giving away of any of said articles so long as any of the troops remain on duty in the city, town, or village, or in the vicinity, where such place may be located, whether any civil officer has forbidden the same or not. And the commanding officer of such troops may continue the prohibition in force until the departure of the troops, although the sheriff, mayor, or intendant of the county, town, or village may have prescribed an earlier date at which such occupation may be carried on.

(Feb. 28, 1889, p. 99.)

Ib., § 22.

989. (2893) (178) Annual encampment.—The governor may annually order into active service the whole or such portion of the Alabama National Guard as he may deem proper, for the purpose of perfecting them in military discipline and drill; the period of such service being fixed by the governor. When so ordered into service, the state shall furnish rations for officers and men, and pay such expenses of such encampment as the governor may deem proper, including the traveling expenses of officers and men incurred in obeying such orders.

(Mar. 1, 1883, p. 103, § 21.)

Ib., § 23.

990. (2894) (180) Deserters.—Whenever any part of the Alabama National Guard are called into active service for the state, for any purpose whatever, the commanding officer may enforce the attendance of officers and men. And any officer or man failing to report when ordered, without sufficient excuse, to be judged by a court-martial, shall be deemed and treated as a deserter.

991. (2895) (179) Articles of war.—Whenever any portion of said troops are ordered into active service, either for the purpose of perfecting them in military discipline and drill, or to aid in the enforcement of the laws of the state, officers and men so ordered into service shall, during such time, be governed by the articles of war and the rules and regulations of the United States army then in force so far as consistent with the constitution of this state. Feb. 28, 1890, p. 136, § 24.

992. (2896) (197) Penalty for failure to attend encampment.—Any company ordered into camp for the purpose of perfecting it in military discipline and drill, and failing to attend any such camp with not less than forty rank and file, shall, unless excused by the commanding officer of the regiment, forfeit all right to any quarterly allowance for the remainder of the year, including such as may then be due and unpaid, and any such company failing, without good excuse, to be judged of by the regimental commander, to attend two consecutive encampments, shall be disbanded. Ib., § 26.

993. (2855) Brigade; formation of.—The organized military forces of this state may be formed into a brigade and be under the command of a brigadier-general, who shall be appointed by the governor; but nothing in this chapter shall be construed as creating any vacancy in the office of brigadier-general or any of his staff. Ib., § 27.

(Feb. 18, 1897, p. 1308, § 4.)

994. (2856) Powers of brigadier-general.—The brigadier-general shall appoint one assistant adjutant-general, who shall be chief of the brigade staff; one chaplain; one inspector; one judge advocate; one surgeon; one ordnance officer; one quartermaster; one commissary of subsistence; and one inspector of rifle practice, each of the grade of major of infantry, and four aides-de-camp, of the grade of captain of infantry, whose duties shall be those of officers of similar grade and position in the United States army. Ib., § 28.

995. Payment of brigade staff.—The necessary expenses for books, stationery, blanks, and clerical assistance, and the traveling expenses of the brigadier-general and members of his staff, when authorized and approved by the governor, shall be paid upon warrants of the state auditor and upon itemized accounts certified by the brigadier-general and approved by the governor. Ib., § 28½.

996. Military board; its duties.—There shall be a military board, consisting of the adjutant-general, the quartermaster-general, and the inspector-general, and there may be two additional members appointed, in the discretion of the governor, who may be line officers of the National Guard, not below Sept. 30, 1908, p. 206, § 30.

the rank of lieutenant-colonel. The military board shall constitute an advisory body to the commander-in-chief on military matters appertaining to the state, and said board may prepare and promulgate the necessary rules and regulations and provisions for the organization, government, and compensation of the Alabama National Guard, and said rules, provisions, and regulations, together with such amendments and changes as may be required and made from time to time, when approved by the commander-in-chief, shall be in force from the date of their publication in general orders. They may, subject to the approval of the commander-in-chief, make such changes in the military organization of the state as they deem best for the interest of the service, or to conform said organization to the laws of the United States, and to the organization of the army thereof; but said changes shall not conflict with the laws of the state, and the expense thereof to the state shall not be increased by such changes beyond the annual appropriation for the National Guard.

Sept. 30,
1903, p.
205, § 31.

997. When military board meets.—The said military board shall meet at such times as the governor may deem their services to be necessary for the transaction of such military business as may need their attention. The military board may prepare and promulgate articles, rules, and regulations for the government and discipline of the Alabama National Guard not inconsistent with the constitution and laws of the United States or of this state, which rules and regulations, when approved by the governor, shall be published to the troops and shall have the force and effect of law, and a copy of the same shall be furnished every commissioned officer.

Ib., 32.

998. Retired list; who are eligible.—Whenever any commissioned officer or enlisted man has served ten years in the aggregate in the Alabama National Guard he may, upon application to the governor, be retired from active service and placed upon the retired list with pay or allowance. When any officer has reached the age of sixty-two years he may, at the discretion of the governor, be so retired and placed upon the retired list. Officers and enlisted men on the retired list may wear, on appropriate occasions, the uniforms prescribed for the highest grade attained by them during their active service, the uniforms to be without corps, department, or regimental designation. Any officer or enlisted man who has heretofore been honorably discharged after ten years' service may be placed upon the retired list, upon his own application.

CROSS REFERENCES.

MILITIA; MILITARY; STATE TROOPS (Political Code).....	929 et seq.
“ (Criminal Code)	7396-7417, 7546
MILLDAM (Civil Code).....	3888-3909
MILLS AND MILLERS (Civil Code).....	4892-4893, 8888-3909
“ (Criminal Code)	7823

CHAPTER 30.

MINES AND MINING. 999-1038.

SECTION.

999. Inspectors of mines appointed by governor; terms.
1000. Salary of coal mine inspector.
1001. Qualifications of mine inspectors.
1002. Duties of mine inspectors.
1003. Governor may remove inspector for incompetency or malfeasance and appoint successors.
1004. Inspectors must make report to governor.
1005. Appropriation.
1006. Board of examination of mine bosses; examination and certificate; fee; compensation of members.
1007. Qualifications of applicants for certificates; classification.
1008. Mine owner or operator must provide standard scales for weighing coal.
1009. Coal to be weighed and full weight credited to miner at two thousand pounds a ton.
1010. Check weighman, with access to scales, weights and accounts.
1011. Chief inspector to procure, at expense of state, standards, balances, and other means of adjusting scales.
1012. Mine inspector, miners, owners of the mine, and other interested persons may inspect scales and record of weights.
1013. Who may act as foreman; fees for examination and certificates.

SECTION.

1014. Foremen of mines employing twenty or less men.
1015. Mine inspector must make annual report to chief inspector of mines.
1016. Ventilation of mines.
1017. Duty of mine inspector when informed of insufficient ventilation.
1018. State to furnish necessary instruments for testing air in mines.
1019. Stretchers, blankets, oil, bandages, etc., to be kept at mines.
1020. Breaks through.
1021. Props and other timber to be supplied by operators.
1022. Safety lamps must be furnished by operators; how kept; duty to report injury.
1023. Each mine must have at least two available openings when required by the inspector.
1024. Not more than twenty men to work without escapeway.
1025. Maps of underground mines.
1026. Chief inspector to give written instructions as to the manner of working gaseous mines and examine machinery.
1027. Doors used in ventilating system to be self-closing.
1028. Safety catches, brakes, props, and indicators to be attached to cages.
1029. Character of engineers; must not allow unauthorized interference with engine.

SECTION.

1030. Precautions against dangerous accumulations of gas.
1031. When gas is known to exist in mine a competent fire boss must be employed; his duties.
1032. Explosions and accidents causing personal injury must be forthwith reported to inspector, who must investigate and make record of same.
1033. Rules to be posted for information of employes.

SECTION.

1034. Rules.
1035. Women and boys under fourteen not to work in mines.
1036. Controversies between operators and inspectors; how settled; discretion of inspectors.
1037. Controversies between chief mine inspector and operator referred to the judge of probate; appeal; penalty.
1038. When adjacent owner may inspect mine.

999. (2899) Inspectors of mines appointed by governor; terms.—There shall be appointed by the governor of Alabama three inspectors of coal mines; one of them shall be designated as chief mining inspector, and the other two shall be designated as associate mining inspectors. Each shall hold his office for three years from the date of his appointment and until his successor is appointed and qualified.

(Feb. 16, 1897, p. 1099, § 1.)

Feb. 18,
1903, p.
50, § 1,
sub. div.
25%.

1000. (2899) Salary of coal mine inspectors.—The salary of the chief inspector shall be one thousand five hundred dollars per annum, and the salary of each of the associate inspectors shall be one thousand two hundred dollars per annum.

(r.c.c.)

1001. (2900) Qualifications of mine inspectors.—The chief mining inspector shall be a qualified elector and a practical miner of at least five years' experience, and his two associates shall be qualified electors and practical miners of at least five years' experience. No one shall be appointed mine inspector who, or the wife of whom, owns and operates, in whole or in part, mining property.

(Feb. 16, 1897, p. 1099, § 2.)

1002. (2901) Duties of mine inspectors.—The mine inspectors shall give their whole time and attention to the duties of their offices. It shall be the duty of mine inspectors to examine all the mines in this state at least every three months, to see that all the requirements of this chapter are strictly observed and carried out; inspectors shall particularly examine the works and machinery belonging to any mine, examine into the state of the mines as to ventilation, circulation, and condition of air, drainage and general security; they shall make a record of all examinations of mines, showing the date when made, the condition in which the mines are found, the extent to which the laws relating to mines and mining are observed or violated, the progress made in the improvements and secu-

rity of life and health sought to be secured by the provisions of this chapter, number of accidents, injuries received, or deaths in and about the mines, the number of persons employed in or by each mine, together with all such other facts and information of public interest concerning the condition of mines, development, and progress of mining in this state, as they may think useful and proper, and so much thereof as may be of public interest, to be included in his report.

1003. (2902) Governor may remove inspector for incompetency or malfeasance, and appoint successor.—The governor may discharge a mine inspector at any time, upon the filing of a written complaint substantiated by sufficient proof for unfairness, unfitness, incompetency, or malfeasance, and appoint his successor for the unexpired term.

1004. (2903) Inspectors must make report to governor.—The inspectors of mines shall, prior to the assembling of the legislature, make a written report to the governor, stating the condition of the mining interests in this state, with such suggestions and information as may be of interest to the mining industry, and the report may be printed on the order of the governor.

1005. (2904) Appropriation.—The sum of three thousand and two hundred dollars is appropriated out of any money in the state treasury not otherwise appropriated, for each of the years 1907, 1908, 1909, and 1910 to pay the necessary traveling and other necessary expenses incurred by the members of the board of mine inspectors while traveling in the discharge of their official duties and for the payment of office rent for said board not to exceed forty dollars a month; and for the rent or hire of a telephone at the residence of each member of said board and one telephone at the office of said board; for postage stamps and stationery, and for the payment of long-distance and telegraph messages sent by the members of said board when necessary in the discharge of their official duties; said expenses to be paid monthly on approval by the governor of monthly itemized statements presented to him by the chief mine inspector; and the state auditor is authorized and directed to draw his warrant on the state treasurer in favor of the chief mine inspector for the monthly expenses incurred as aforesaid, when so directed by the governor.

As amended Aug. 8, 1907, p. 608, §§ 1 and 2.

1006. (2905) Board for examination of mine bosses; examination and certificate; fee; compensation of members.—The chief inspector of mines, who shall be chairman of the board, together with two practical miners, and two operators of mines (a majority of whom may act), shall constitute a board of examiners, to examine and give certificates of fitness to persons as mine bosses, in any coal mine in this state. A fee

of five dollars shall be paid to the chief inspector of mines by each person examined, to be used as an examiners' fund, before the examination is begun. Out of the examiners' fund there shall be paid to each member of the board, except the chief inspector of mines, who shall serve without extra pay, four dollars per day. Said board shall meet every six months at the office of the chief inspector, and remain in session not longer than three days. The members of such board, except the chief inspector of mines, shall be appointed by the governor and shall hold office for two years and until their successors are appointed and qualified.

1007. (2906) Qualifications of applicants for certificates; classification.—Applicants for first and second-class mine foreman's certificates shall be at least twenty-three years of age, and shall have at least five years' practical experience after having attained to the age of fifteen years, as miners, superintendents at or inside of any coal mine, and shall be citizens of this state and men of good moral character, and men of known temperate habits. The said board shall be entitled to grant certificates of competency of two grades, namely: Certificates of the first class to persons who have had experience in mines generating gases, and who shall have the necessary qualifications to fulfill the duties of mine foreman in such mines; and certificates of the second class to persons who give satisfactory evidence of their ability to act as mine foreman in mines not generating explosive gases.

1008. (2907) Mine owner or operator must provide standard scales for weighing coal.—The owner or operator of each coal mine at which the miners are paid by weight shall provide such mines with suitable scales, of standard make, for the weighing of all coal, when contracted for to be weighed.

1009. (2908) Coal to be weighed and full weight credited to miner at two thousand pounds a ton.—All coal mined in this state contracted for payment by the ton or other weight, shall be weighed, and the full weight thereof shall be credited to the miner of such coal, and two thousand pounds of coal shall constitute a ton.

1010. (2909) Check weighman, with access to scales, weights, and accounts.—In all mines the miners employed and working therein may furnish a check weighman, who shall at proper times have full access and examination of such scales and seeing all measures and weights, and accounts kept of the same; provided, that not more than one person shall have such right of access, examination, and inspection of scales, measures, and accounts at the same time.

1011. (2910) Chief inspector to procure, at expense of state, standards, balances, and other means of adjusting scales.—

The chief mine inspector shall procure from the state, at the state's expense, a full and complete set of standards, balances, and other means of adjustment such as are necessary in the comparison and adjustment of scales, beams, and other necessary apparatus to be used for a just weighing of coal and other materials at the mines according to the state standard of weights; and it shall be the duty of said inspector to examine, test, and adjust, as often as occasion demands, all scales and other apparatus used in weighing at mines.

(Feb. 16, 1897, p. 1099, § 7.)

1012. (2911) Mine inspector, miners, owners of the mine, and other interested persons may inspect scales and record of weights.—The mine inspector, miners employed in the mines, and the owner of the land or persons interested in the rental and royalty of such mines, shall at all proper times have full right of access to scales used at said mines, including bank book in which the weight of coal is kept, to examine the amount of coal mined, for the purpose of testing the accuracy thereof.

1013. (2912) Who may act as foreman; fees for examinations and certificates.—No person shall act as foreman in any coal mine in this state generating explosive gases unless he is in possession of a first-class certificate of competency. The fee for examination and issuing a first-class certificate shall be five dollars, and for a second-class certificate, three dollars.

1014. Foremen of mines employing twenty or less men.—The chief mine inspector shall, upon application by the owner or operator of mines in which not more than twenty men are employed, grant permission for such owner, operator, or some suitable person recommended by the operator, to act as foreman in such mines, and no examination shall be required of said foreman; but this section shall not apply to the counties of Bibb, Etowah, St. Clair, Jefferson, Walker, Marion, Tuscaloosa, Shelby, Cullman, and Madison.

Feb. 23,
1899, p.
86, § 1.

1015. (2913) Mine inspector must make annual report to chief inspector of mines.—On or before the twenty-fifth day of January in each year the operator or superintendent of every coal mine shall send to the chief inspector of mines a correct report, if required, specifying with respect to the year ending the thirty-first day of December, preceding, the name of the operator and location of office of the mine, and the quantity of coal mined. The report shall be in such form and give such information regarding such mine as may be from time to time required and prescribed by the chief inspector of mines. Blank forms for such report shall be furnished by the chief inspector of mines.

1016. (2914) Ventilation of mines.—The operator or superintendent of every coal mine, whether shaft, slope, or drift, shall provide and hereafter maintain, ample means of ventilation for the circulation of air through the main entries and all other working places to an extent that will dilute, carry off, and render harmless the noxious gases generated in the mines. It shall be the special duty of the inspector and his assistants to carry out the provisions of this section; and it shall also be the duty of each and every mine operator and mine boss to assist the inspector and his assistants in carrying into effect said provisions.

(Feb. 16, 1897, p. 1099, § 8.) Servant may presume master has complied with statutory duty.—*Foley v. Pioneer Co.*, 144 Ala. 178 (40 So. 273).

1017. (2915) Duty of mine inspector when informed of insufficient ventilation.—If at any time the inspector or his assistants are notified that the ventilation in any coal mine within this state is insufficient, the said chief inspector, or one of his assistants, shall proceed within five days to investigate said complaint or complaints by personal inspection of any mine or mines in which the quality or quantity of air is complained of, and if on investigation he finds that the air in any mine is insufficient, he shall direct the operator or operators of this mine to adopt such measures for the proper ventilation of such mine as he deems necessary. In the event that the inspector or one of his assistants fails, without sufficient cause, or refuses to make the investigation herein provided for, in addition to the penalty prescribed by law, he may be removed from office by the governor.

1018. (2916) State to furnish necessary instruments for testing air in mines.—The chief mine inspector shall be furnished by the state all necessary instruments for measurement of air in mines, and whatever chemical instruments the said inspector may recommend from time to time.

1019. (2917) Stretchers, blankets, oil, bandages, etc., to be kept at mines.—It shall be the duty of the operator, agent, or superintendent of each mine to keep at the mouth of the mine, or at any such other place about the mine as shall be designated by the chief mine inspector, a stretcher, properly constructed, and a woolen and waterproof blanket in good condition for use in carrying away any person who may be injured at the mines; and where more than two hundred men are employed, two stretchers, and two woolen and waterproof blankets shall be kept in mines generating fire-damp. A sufficient quantity of linseed or olive oil, bandages, and linen shall be kept in the store at the mines for use in emergencies, and bandages shall be kept at all mines.

1020. (2918) Breaks through.—It shall be the duty of the chief mine inspector to require the proper breaks through to be made in all room-pillars, at such distances apart as, in the judgment of the mine inspectors may be deemed requisite; said breaks through to be made and paid for according to the contract existing between the said owners and operators of the mine and the miners, at the time the said breaks through are ordered to be made.

1021. (2919) Props and other timber to be supplied by operators.—The owners, agents, and operators of any coal mine shall keep a sufficient supply of props and other timber used in the mines, so that the workmen may at all times be able to prop their working-places, and the owner, agent, or operator shall afford the miners working in their mines proper facilities for the delivery of props and other timber needed by them in their respective working-places.

1022. (2920) Safety lamps must be furnished by operator; how kept; duty to report injury.—All safety lamps used for examining mines, or for working therein, shall be the property of the operator, and shall be in the care of the mine foreman, his assistant or fire boss, or other competent persons, who shall fill, trim, and examine and deliver the same locked in a safe condition to the men when entering the mines before each shift, for which service a charge not exceeding cost of labor and material may be made by the operator. A sufficient quantity of safety lamps, but not less than twenty-five per cent of those in use, shall be kept at each mine where gas has at any time been generated in sufficient quantities to be detected by ordinary safety lamps, for use in case of emergency. It shall be the duty of every person who knows his safety lamp to be injured or defective to promptly report such fact to the party authorized herein to receive and care for said lamps, and it shall be the duty of that person to promptly report such fact to the mine foreman.

(Feb. 16, 1897, p. 1099, § 13.)

1023. (2921) Each mine must have at least two available openings when required by the inspector.—Whenever required by the chief mine inspector it shall be the duty of the owner, operator, or manager of all coal mines to have and maintain at least two available openings to the surface from each seam or stratum of the coal worked in such mine, one of said openings to be known as a manway or escapeway in case of accident. Said manway or escapeway shall be kept in good condition and shall be at all times reasonably safe for entering and leaving the mines; reasonable time, however, shall be given to the said operator, owner, or general manager

to prepare the second opening, in no case exceeding six months from the time such order is made, unless, in the opinion of the chief mine inspector, a longer time is required, in which case they shall allow the additional time necessary and so ordered.

1024. (2922) Not more than twenty men to work without escapeway.—Not more than twenty men shall be allowed to work in any new mine hereafter to be opened until an escape-way is provided for.

As amended
Mar.
4, 1901, p.
177.

1025. (2923) Maps of underground mines.—The owner, agent, or operator of any underground mine in this state shall make or cause to be made by a competent engineer an accurate and exact map of said mine showing the exact position of said mine in reference to the section lines which shall be connected with some known boundary line of the section or subdivision of the section. Said map shall show accurately the position of any branches, creeks, or rivers under which said mine may extend; also, as near as possible, the position of any old mine near by, and said map shall be sworn to by the engineer making same. The original map provided for herein shall be filed during the month of January next after the opening of said mine and shall show its condition on the first day of such January, and all new work inside of the mine must be added to said map, or a new map filed each year thereafter, showing the condition of the mine on the first day of January of the same year; and this provision for additions to maps shall apply to all maps which have heretofore been filed in the office of the chief inspector of mines. Said maps shall be filed in the office of the chief inspector of mines, who shall provide a suitable and safe place for keeping them. The chief inspector of mines, with the approval of the board of examiners, may refuse to accept maps made by persons claiming to be mining engineers who are not known to be such and of good standing and character in their profession. The mine boss in charge of such mines shall certify to the correctness of such map and the additions made thereto. Said map shall be made on a uniform scale of one hundred feet to the inch, and any person may secure a copy of any map on file in the inspector's office by paying reasonable charges for making such map, and such copy when certified by the inspector shall be evidence in any court of this state. The chief inspector of mines during the first three days of January of each year shall forward or cause to be forwarded by express or by other safe means of transmitting at the expense of the agent, owner, or operator of the respective mines all maps on file in his office of mines in operation to the chief office of the respective mines as such chief office shall be reported to him, in order that said maps may be revised, showing the condition of the mine

on the first day of January of each year, and such agent, owner, or operator of each mine in this state shall have such maps revised during the month of January of each year, and return the same to the office of the chief mining inspector, charges prepaid, during said month of January of each year, and if said maps shall not be so returned, the chief mining inspector shall charge for the time in default at the rate of one dollar per day for each day's delay after the last day of January, and he shall not file any such delayed map until the fine has been paid, and all fines collected under this section shall be paid by him into the state treasury.

1026. (2924) Chief inspector to give written instructions as to the manner of working gaseous mines and examine machinery.—The chief inspector of mines shall give directions to the mine operators, owners, and general managers as to the method of working gaseous mines, and the manner of working and propping the roof in any and all mines, and shall examine the machinery and appliances used in working the same. All such directions shall be given in writing, subject, however, to the approval of the board of examiners, as herein provided.

1027. (2925) Doors used in ventilating system to be self-closing.—The doors used in a system used in ventilating or regulating the ventilation of mines shall be so hung and adjusted that they will close themselves, or by supplying them with springs and pulleys so that they cannot be left standing open.

1028. (2926) Safety-catches, brakes, props, and indicators to be attached to cages.—Approved safety-catches shall be attached to the cage used for the purpose of hoisting and lowering persons into and out of the mines. An adequate brake shall be attached to every brake, drum, or machine for lowering and hoisting persons into and out of the mines, and also props and indicators which shall show to the person who works the machine the position of the cage or load in the shaft or on the roadway.

1029. (2927) Character of engineers; must not allow unauthorized interference with engine.—The owner, agent, or operator, or agent of any coal mine, shall place in charge of any engine used for conveying into and hoisting out of said mine, none but an experienced, competent, and sober engineer. No engineer in charge of such an engine, or machinery, shall allow any person except such as may be deputed for that purpose, by the owner, agent, or operator to interfere with it, and no person shall interfere with or intimidate the engineer in the discharge of his duty.

1030. (2928) Precautions against dangerous accumulations of gas.—When a place is likely to obtain a dangerous accumu-

lation of gases or water, works, when approaching such places, shall not exceed eight feet in width, and there shall be constantly kept at a sufficient distance ahead, not less than three yards in advance, one bore hole near the center of the working, and sufficient flank bore holes on each side, six feet apart and six feet in depth.

(Feb. 16, 1897, p. 1099, § 23.)

1031. (2929) When gas is known to exist in mine a competent fire-boss must be employed; his duties.—When gas is known to exist, the owner, agent, or operator of any coal mine shall employ a competent fire-boss, whose duties it shall be to examine every place in the mine before the men are permitted to enter for work. Said fire-boss shall be at some convenient place each day to inform every man as to the state and condition of his working place before entering. Said work shall be carefully examined every morning with a safety lamp by the fire-boss before the workmen are allowed to enter therein.

1032. (2930) Explosions and accidents causing personal injury must be forthwith reported to inspector, who must investigate and make record of same.—When, by reason of any explosion or accident in any mine in this state, or the machinery connected therewith, loss of life or serious personal injury shall occur, it shall be the duty of the person having charge of such mine to give notice thereof forthwith to the chief inspector of mines, or any inspector, and it shall be the duty of the chief mine inspector, or any inspector, upon being notified of any fatal accident, as herein provided, to immediately repair to the scene of the accident and make such suggestions as may appear necessary to secure the safety of any person who may be endangered. The said mine inspector shall keep on file a list of all fatal accidents, and to enable them to make the investigation, he shall have the power to compel the attendance of persons to testify.

1033. (2931) Rules to be posted for information of employes.—For the purpose of making known the rules and provisions of this chapter to all persons employed in or about the mines to which this chapter applies, an abstract of the chapter and rules shall be posted up in legible characters in some conspicuous place or places at or near the mines where they may be conveniently read by the persons employed, and so often as they become obliterated or destroyed, the owner, operator, or superintendent shall cause them to be renewed with all reasonable dispatch. Any person who pulls down, injures, or defaces such abstract of the chapter or rules when up in pursuance of the provisions of this chapter shall be guilty of an offense against this chapter.

1034. (2932) Rules.—Rule 1. No unauthorized person shall enter the mine without permission from the superintendent or mine foreman.

Rule 2. All employes shall inform the mine foreman or his assistant of the unsafe condition of any working place, hauling roads, or traveling ways, or of damages to doors, brattices, or stoppings, or of obstructions in the air passages, when known to him.

Rule 3. Every workman employed in the mine shall examine the working place before commencing work, and after any stoppage of work during the shift he shall repeat the examination.

1035. (2933) Women and boys under fourteen not to work (r.o.c.) **in mines.**—No woman, or boy under the age of fourteen years, shall be employed to work or labor in or about any mine in this state.

1036. (2934) Controversies between operators and inspectors; how settled; discretion of inspectors.—In case of any controversy or disagreement between inspectors and the owner or operator of any mines, or the persons working therein, or in case of conditions of emergency requiring counsel, the chief mine operator may call on the board of examiners for such assistance and counsel as may be necessary. Should the mine inspector find any of the provisions of this chapter violated or not complied with by the owner or lessee or agent in charge of any mines, he shall immediately notify such owner, lessee, or agent in charge, of such neglect or violation; unless the same is within a reasonable time rectified, or the provisions of this chapter are fully complied with, he shall institute a prosecution. The inspector shall exercise a sound discretion in enforcement of the provisions of this chapter, and if in any respect which is not provided against by or may result from any rigid enforcement of any expressed provision of this chapter, the inspector finds any matter, thing, or practice in or connected with any such mines to be dangerous or defective, so as to, in his opinion, threaten or tend to the bodily injury of any person, the inspector may give notice in writing thereof to the owner, agent, or manager of the mine, and shall state in such notice the particulars in which he considers such mine or any part thereof, or any matter, thing, or practice, to be dangerous or defective, and require the same to be remedied, giving a reasonable time to have the same done. For the purpose of making the inspection and examination provided for in this section, the mine inspector and board of examiners shall have the right to enter any mine at a reasonable time by day or night, but in such manner as shall not unnecessarily obstruct the workings of the mine, and the owner or agent of such mine

is hereby required to furnish the means of such inquiry and inspection if within their power.

1037. (2935) Controversies between chief mine inspector and operator referred to the judge of probate; appeal; penalty.—Whenever any agent or operator of any mines shall refuse or fail to comply with any order or direction of the chief mine inspector after the expiration of a reasonable time, it shall be the duty of the mine inspector to refer the matter to the judge of probate of the county in which the mine is located. Upon such reference the judge of probate shall set a day for the hearing of the same, and issue citation to the owner or operator of the mine to appear and contest the same if he sees proper; said citation to be served by the sheriff of the county at least ten days before the day of trial. Upon the application of either party the judge of probate must issue subpoena for witnesses, to be served by the sheriff as in other cases. After hearing the case, the probate judge must render such decision as he may deem just and equitable, from which decision either party may appeal to the circuit court within sixty days, when it shall be tried de novo. From the decision of the circuit court either party may appeal to the supreme court of Alabama. If no appeal is taken, the decision shall be final and binding on said operator or mine owner, and any mine owner or operator who refuses to carry out the final order or determination of the case, after a reasonable time, shall be guilty of a misdemeanor, and must, on conviction, be fined not more than one thousand dollars.

(Feb. 16, 1897, p. 1099, § 38.)

1038. (2936) When adjacent owner may inspect mine.—Whenever the owner or lessee of any land adjacent to other land upon which any mine is being worked, shall have reason to believe that such mine is being so worked as to encroach upon his land, and has been refused by the owner, operator, or manager of the mine, permission at reasonable times to enter upon said mine with a competent engineer for the purpose of inspecting and surveying such mine, he may make application under oath to the probate court of the county in which the mine is situated, setting out the facts and praying for an order that such mine shall be surveyed. Upon the hearing, after such notice to the owner, operator, or manager of the mine as the court may prescribe, the court may make an order requiring the sheriff of the county to employ a competent engineer to make a survey of such mine and file such survey in the office of the judge of probate, and such survey, when filed, shall be received in any court as prima facie correct. The court may at any time during the progress of the proceeding require such

security for costs, and may tax the costs in such manner, as may be just and equitable.

(Feb. 8, 1893, p. 331.)

CROSS REFERENCES.

MINES AND MINING (Political Code).....999-1038
 " (Criminal Code)7418-7420
MINES AND MINING, SCHOOL FOR (Political Code)1971-1974
MINING, QUARRYING, AND MANUFACTURING COMPANIES (Civil Code) 3481
MINISTERS; ITINERANT (Civil Code).....3593-3596, 4881
MINORS (Civil Code).....4337-4481, 2485
 " (Criminal Code)6446, 6896, 7354, 7370
MINORS AND WIDOWS; EXEMPTIONS (Civil Code).....4205-4230
MINORS; DISABILITIES OF NON-AGE (Civil Code).....4505-4511
MINUTES (Civil Code).....5732, 5738
MISCEGENATION (Criminal Code).....7421, 7422
MISCONDUCT OF OFFICERS (Criminal Code).....7430-7490
MISDEMEANORS (Criminal Code)6756, 7129, 7622
MISSISSIPPI (Political Code)..... 83
MISTAKE (Civil Code).....5368, 4140, 2649, 2650
MOBILE BAY AND HARBOR (Criminal Code).....7869-7871, 7811
MOBS (Criminal Code)7721-7726, 7400-7401
MONEY (Civil Code)5150-5152, 5899-5935
MONEY-LENDING (Political Code)..... 2361
MONOPOLIES, TRUSTS, AND COMBINES (Criminal Code).....7579-7582
MONTEVALLO SCHOOL (Political Code)1912-1932
MONTGOMERY, COUNTY OF (Civil Code).....5928-5930, 6113, 6114
MONTH (Political Code).....8, 1759

CHAPTER 31.

MONUMENT COMMISSION. 1039-1045.

<p>SECTION. 1039. Monument commission established. 1040. Officers of commission. 1041. Powers and duties of monument commission. 1042. Appropriation for expenses of commission.</p>	<p>SECTION. 1043. Appropriation for specific monuments. 1044. Intent of appropriation. 1045. Monument commission may join with other commission in erecting monuments, or may supplement other monument funds.</p>
---	--

1039. **Monument Commission established.**—"The Alabama Monument Commission" shall consist of eight Confederate branches of the service, to be appointed by the governor, and also of the incumbents for the time being of the offices of the commander of the Alabama division United Confederate Vet-

Aug. 6,
 1907, p.
 549, § 1.

erans, the commander of the Alabama division United Sons of Confederate Veterans, and the director of the state department of archives and history.

Aug. 6,
1907, p.
549, § 1.

1040. Officers of commission.—The governor of the state shall be the president, and the director above named shall be secretary and historian, of the commission.

Ib., §§ 1,
2 and 3.

1041. Powers and duties of monument commission.—The commission is empowered to adopt rules for its guidance and for the execution of the powers and duties herein imposed, and five members shall constitute a quorum. It shall keep a careful record of its proceedings, and shall make an annual report to the governor, to be printed as other official reports. In the ordinary conduct of its business and in attendance upon meetings, the members shall serve without charge or compensation, but if it is found necessary by the commission for a member or members to inspect personally or visit a military park, or other point in connection with the marking, monumenting, locating, or identifying the same, or any point or place therein, then, and in such event, the actual expenses of such member or members may be paid while so engaged. The commission shall act for and officially represent Alabama on all subjects, inquiries, and matters connected with or growing out of the part performed by troops from this state in the war between the Confederate States and the United States, which may arise in connection with the location and identification of their position or part in any battle or engagement, or upon any battlefield, or in connection with the appropriate determination, location, identification, or marking of such part or position, or in connection with the appropriate marking or monumenting of spots or occurrences made historic by their services or sacrifices, whether in the several military parks or on some other battlefield, or in prison or other cemeteries or other historic spots or places. The commission, unless otherwise provided, shall have charge of the erection and shall direct the expenditure of all appropriations for the placing of monuments, memorials, or markers to Alabama troops in the war as above set forth.

Ib., § 4.

1042. Appropriation for expenses of commission.—The sum of one thousand dollars is appropriated for the expenses of the commission in the execution of its duties, the said sum to be drawn only on the approval of the governor.

Aug. 16,
1907, p.
763, § 1.

1043. Appropriation for specific monuments.—To enable the Alabama Monument Commission to erect suitable and dignified monuments, in the National Military Parks at Shiloh, Gettysburg, Vicksburg, and Chickamauga, and at such other places as the monument commission may, in its judgment, see fit to erect a monument to commemorate the heroic deeds of Alabamians, and suitable monuments and head-stones over the

graves of Alabamians who died in prison, there is appropriated a sum sufficient to pay not more than twenty-five thousand dollars for each one of the monuments to be erected in the National Military Parks, and a sum not exceeding ten thousand dollars for any other monument erected by the monument commission.

1044. **Intent of appropriation.**—It is the intent of the preceding section to make the appropriation available till all monuments have been erected which the monument commission determine should be erected, and no part of it shall be drawn till actually needed and with the approval of the governor, who may direct the expenditure for monuments so as not to embarrass the financial condition of the treasury.

Aug. 16,
1907, p.
754, § 2.

1045. **Monument commission may join with other commissions in erecting monuments, or may supplement other monument funds.**—With the approval of the governor, the monument commission may join with any committee of citizens in erecting any monument, or may supplement the amount raised by any camp of the United Confederate Veterans, or camp of the United Sons of Confederate Veterans, or chapter of the United Daughters of the Confederacy, or any Ladies' Memorial Association, to erect a monument, provided that not more than twenty-five thousand dollars be expended in any one fiscal year.

Ib., § 3.

CROSS REFERENCES.

MONUMENT COMMISSION (Political Code).....	1039-1045
MORTGAGED PROPERTY (Disposing of Property Unlawfully) (Criminal Code)	7342, 7343, 7423
MORTGAGES (Civil Code).....	4894-4900, 3359 et seq., 4160
MOTIONS (Civil Code).....	2838, 3680 et seq., 5899 et seq.
MOUNTAIN CREEK HOME (Political Code)	2038-2053
MOUNT VERNON HOSPITAL (Political Code)	838- 878
MULATTO (Political Code).....	2

MUNICIPAL CORPORATIONS.
Municipalities Declared Bodies Corporate and Classified.

CHAPTER 32.

MUNICIPAL CORPORATIONS. 1046-1460.

- ARTICLE 1. MUNICIPALITIES DECLARED BODIES CORPORATE AND CLASSIFIED. 1046-1052.**
- ARTICLE 2. INCORPORATION, MODE OF; ELECTION FOR. 1053-1069.**
- ARTICLE 3. LIMITS, ANNEKATION AND BOUNDARIES OF MUNICIPALITIES; EXTENSION OF. 1070-1074.**
- ARTICLE 4. EXTENSION OF LIMITS OF CITIES OF TWENTY-FIVE THOUSAND INHABITANTS; RIGHTS, POWERS AND DUTIES OF CITIES SO EXTENDED. 1075-1125.**
- ARTICLE 5. CONSOLIDATING MUNICIPALITIES. 1126-1132.**
- ARTICLE 6. ANNEKATION AND MERGER OF CONTIGUOUS MUNICIPALITIES; ALTERNATE MODE. 1133-1155.**
- ARTICLE 7. ABSORBED, MERGED OR ANNEKED CORPORATIONS; ADMINISTRATION OF AFFAIRS AFTER ABSORPTION. 1156-1163.**
- ARTICLE 8. ELECTIONS, MUNICIPAL. 1164-1171.**
- ARTICLE 9. OFFICERS; POWERS, DUTIES, REMOVAL, IMPEACHMENT, ETC. 1172-1191.**
- ARTICLE 10. COUNCIL, POWERS AND DUTIES OF. 1192-1198.**
- ARTICLE 11. CLERKS OF MUNICIPALITIES; POWERS AND DUTIES OF. 1199-1203.**
- ARTICLE 12. TREASURER, POWERS, RIGHTS AND DUTIES OF. 1204-1207.**
- ARTICLE 13. HEALTH LAWS AND REGULATIONS 1208-1212.**
- ARTICLE 14. RECORDERS AND RECORDERS COURTS. 1213-1229.**
- ARTICLE 15. POLICE JURISDICTION, TERRITORIAL. 1230.**
- ARTICLE 16. POLICE COMMISSION. 1231-1232.**
- ARTICLE 17. BOARD OF PUBLIC WORKS. 1233-1250.**
- ARTICLE 18. ORDINANCES AND RESOLUTION. 1251-1259.**
- ARTICLE 19. POWERS, AUTHORITIES AND DUTIES OF MUNICIPALITIES. 1260-1295.**
- ARTICLE 20. RAILROAD TRACKS, BRIDGES, VIADUCTS, TUNNELS, ETC., PROVIDED FOR. 1296-1301.**
- ARTICLE 21. DRAINAGE, SEWERS, ETC. 1302-1308.**
- ARTICLE 22. CEMETERIES, GRAVEYARDS, BURIAL GROUNDS, CARE AND MAINTENANCE OF. 1309, 1310.**
- ARTICLE 23. TAXATION. 1311-1337.**
- ARTICLE 24. LICENSE TO CARRY ON BUSINESS, TRADES, ETC. 1338-1347.**
- ARTICLE 25. SCHOOLS AND EDUCATION. 1348-1358.**
- ARTICLE 26. PUBLIC IMPROVEMENTS, BETTERMENTS, POWER TO CONSTRUCT AND MAINTAIN. 1359-1420.**
- ARTICLE 27. MUNICIPAL BONDS FOR PUBLIC UTILITIES. 1421-1435.**
- ARTICLE 28. BONDED INDEBTEDNESS, SETTLEMENT AND REFUNDING OF. 1436-1438.**
- ARTICLE 29. EMINENT DOMAIN, CONDEMNATION; RIGHTS AND POWERS AS TO. 1439-1442.**
- ARTICLE 30. FOREIGN MUNICIPAL CORPORATIONS OF ADJOINING STATES; POWERS TO ACQUIRE WATER RIGHTS. 1443-1449.**
- ARTICLE 31. PROVISIONS APPLICABLE TO ALL CITIES AND TOWNS. 1450-1460.**

ARTICLE 1.

MUNICIPALITIES DECLARED BODIES CORPORATE AND CLASSIFIED. 1046-1052.

SECTION.

1046. Municipalities declared bodies politic and corporate.
1047. Elections, time of holding; terms of office.
1048. Organizing under municipal code.

SECTION.

1049. Powers and rights conferred on all municipalities.
1050. Powers, rights, and actions preserved and enforced.
1051. Corporate limits not changed.
1052. Municipalities classified into cities and towns.

Municipalities Declared Bodies Corporate and Classified.

1046. Municipalities declared bodies politic and corporate.—Aug. 18, 1907, p. 790, § 1.
 All municipal organizations now existing in the State of Alabama, whether incorporated under the general laws of the state, or by special act of the legislative department of the state government, and now exercising corporate powers or functions, and all towns and cities that may hereafter be incorporated under the provisions of this chapter, shall be bodies politic and corporate, using a common seal, which may at any time be changed, and having perpetual succession, under the name now used or hereafter assumed, as provided in this chapter, and each under such name as the "City of _____," or "Town of _____," as the case may be, shall sue and be sued, contract and be contracted with, acquire property by purchase, gift, devise, or appropriation for any municipal purpose herein authorized; and the same shall be held, managed, and controlled by the said municipal corporations under the provisions of law herein contained, and all rules, regulations, resolutions, and ordinances that may be required to carry out any or all of the provisions of this chapter, shall be adopted by the several councils thereof. Such municipal corporations shall be invested with the full powers, duties, and authority herein granted.

1047. Elections; time of holding; terms of office.—Ib., § 2.
 No municipal election for officers, except as herein otherwise provided, shall be held after the 1st day of January next until the third Monday in September, 1908, when a general municipal election shall be held. Officers elected and qualified after the passage of this act and before the first day of January, 1908, and persons holding office on the 1st day of January, 1908, shall, unless removed, be continued in office until the first Monday in October thereafter. Officers elected before the passage of this act whose terms shall not have expired on the first Monday in October, 1908, shall hold office until their terms expire under the provisions of the law under which they were elected, except as herein provided, and the terms of office of all persons elected on the third Monday in September, 1908, shall, in such cases, begin on the expiration of the terms of the persons then holding office, and the persons so elected shall hold office until their successors are elected and qualified. Provided, however, the term of no officer of the city holding office on the first day of January, 1908, shall in any event extend beyond the term of the mayor holding office at said time, except as herein provided. Until the officers elected at the general municipal election on the third Monday in September, 1908, shall have assumed their duties of office, the corporate organizations of the several cities and towns of the state shall be and remain as now provided by law, and such municipal corpora-

Municipalities Declared Bodies Corporate and Classified.

tions shall have the powers and exercise the authority herein conferred, unless prohibited in express terms by the respective charters of the several cities and towns, or when, by their nature, they may not be exercised by such municipalities as now organized. The term "Mayor," as used in this chapter, shall include the chief executive officer of any city or town as now organized.

Aug. 13,
1907, p.
790, § 199.

1048. Organizing under municipal code.—Any municipal corporation existing under the laws of this state on 13th day of August, 1907, which shall desire to organize its present city government under the provisions of this chapter at once, may, by the passage of an ordinance by the governing body of such city or town stating that, in the judgment of such governing body, "that it is for the best interest of such city or town to organize under this chapter, and that the city or town is hereby declared to be organized under the general municipal laws of Alabama, and that the then existing offices and officers of said city or town shall continue to exist and to hold such offices until the time fixed herein for their term to expire, as provided in section 1047 of this Code." The then existing governing body shall proceed to elect such other officers as are required by this chapter and not provided for by the charter of such city or town, who shall hold office until the first election hereunder, and until their successors are elected and qualified. Should there be any office existing under the charter of such city or town not authorized by this chapter, such office shall cease to exist at the first election hereunder.

Ib., § 8.

1049. Powers and rights conferred on all municipalities.—Affirmative action shall not be necessary for cities and towns to acquire the rights, power, and authority granted in this chapter. Municipalities shall, however, hold such elections and pass such ordinances and resolutions as are required by this chapter.

Ib., § 8.

1050. Powers, rights, and actions preserved and enforced.—Rights of action and rights of property arising before or existing at the time of a change of corporate organization, as herein directed, shall be enforced against or in favor of such city or town, and all suits then pending in favor of or against municipal corporations, shall continue to judgment unaffected by this chapter, and shall be enforced in favor of or against such city or town, as the case may be, notwithstanding a change of name or of organization.

Ib.

1051. Corporate limits not changed.—The corporate limits of any city or town shall not be altered or affected by the adoption of this Code.

Ib., § 4.

1052. Municipalities classified into cities and towns.—Municipal corporations now existing, or hereafter organized

Incorporation, Mode of; Election for.

under this chapter, containing two thousand or more inhabitants, shall be called cities. All incorporated municipalities containing more than one hundred and less than two thousand inhabitants, shall be called towns. The last census, whether Federal or taken as herein authorized, shall be taken in determining the population of a city or town. At the next election, more than four months after the census shall have been taken and officially announced, if the municipality shows a population which authorizes a change in its government, under this chapter, the proper officers for such a city shall be elected and perform the duties herein prescribed.

ARTICLE 2.

INCORPORATION, MODE OF; ELECTION FOR. 1053-1069.

SECTION.

- 1053. Communities of one hundred may incorporate.
- 1054. Communities, elections ordered to incorporate.
- 1055. Holding elections.
- 1056. Census, enumeration of inhabitants.
- 1057. Election of officers for incorporated communities.
- 1058. Election, setting aside and ordering another.
- 1059. Dormant municipalities reinstated.
- 1060. Census of municipalities provided for.
- 1061. Alphabetical arrangement of census.

SECTION.

- 1062. Wards, municipalities divided into.
- 1063. Elections, time of holding.
- 1064. Officers enumerated; time of election.
- 1065. Qualifications of officers.
- 1066. Cities of six thousand inhabitants; officers, terms of.
- 1067. Cities of less than six thousand inhabitants; officers, terms of office.
- 1068. Mayor; when elected; no vote.
- 1069. Mayor and council, qualifications, eligibility of.

1053. Communities of one hundred may incorporate.—When the inhabitants of an unincorporated community, which has a population of not less than one hundred, desire to become organized as a municipal corporation, they may apply to the probate judge of the county in which such territory is situated, or the greater portion thereof, if it is situated in two or more counties, for an order of incorporation, by a petition in writing signed by not less than twenty-five qualified electors residing within the limits of the proposed municipality. Such petition shall state the proposed name of such municipality, and shall have attached thereto and as a part thereof an accurate plat of the territory proposed to be embraced within corporate limits. Proof of the residence and qualification as voters of the petitioners shall be made to the judge of probate, by affidavit, or otherwise, as he may direct.

Aug. 13,
1907, p.
790, § 5.

1054. Communities, elections ordered to incorporate.—Upon compliance with the provisions of the next preceding section,

Ib., § 6.

MUNICIPAL CORPORATIONS.

Incorporation, Mode of; Election for.

the judge of probate must direct an election to be held, within thirty days after the filing of the petition, at a place within the limits of the proposed town or city, to be designated by him, and he shall give notice by publication in one or more newspapers, if there are any, published in the county, and by posting in three public places within the limits of the proposed town or city, that such election will be held at a certain time and place, and that a plat showing the limits of the proposed city or town is on file in the office of the judge of probate of such county.

Aug. 13,
1907, p.
790, § 7.

1055. Holding elections.—The judge of probate shall appoint three qualified electors within the limits of the proposed city or town as inspectors to manage the election, which shall be conducted under the same sanction and penalties as is provided by the general election laws, except that a voter may furnish his own ballot, upon which must be written or printed "Corporation" or "No corporation," and any person who is a qualified elector under the state law and has resided within the boundaries of the proposed city or town for three months next preceding may vote at such election.

Ib., § 8.

1056. Census enumeration of inhabitants.—Within five days after the election, the inspectors must certify the result to the judge of probate, who must, if a majority of the votes cast at the election are for "corporation," cause an enumeration of the inhabitants residing within such territory to be made by such inspectors, or other persons appointed by him, and within three days after such enumeration has been completed and returned to him, shall make an order to be entered of record in the minutes of the court, that the inhabitants of such territory are incorporated as a town or city, as the case may be, by the name and with the boundaries shown by the petition; thereupon such town or city shall be vested with the rights and powers herein granted, incident to such corporations.

Ib., § 9.

1057. Election of officers for incorporated communities.—Upon making such order of incorporation, the judge of probate shall order an election to be held, by the same inspectors, or others appointed by him, for the purpose of electing a mayor and members of the council authorized by this chapter, who shall, at such election, be elected from the city or town at large. Such inspectors shall give thirty days' notice of the time and place of holding the election by posting a notice in five public places within the limits of such town or city. Said inspectors shall have the powers and discharge the duties as inspectors and clerks in municipal elections, and said election shall be conducted, as far as practicable, in the manner herein prescribed for the election of city officers, and no person shall vote at such election unless he is a qualified elector of the county

Incorporation, Mode of; Election for.

and has resided within the limits of the municipality for three months next preceding the election.

1058. Election, setting aside and ordering another.—Within five days after such election, the inspectors shall report the result of the election to the judge of probate, who may enter an order confirming and approving the election and report, and in that event, the officers shown by such report to have been elected, shall, upon the recording of such order, be entitled to hold office until the next general municipal election and until their successors are elected and qualified. The judge of probate may, for fraud or material irregularities, set either of such elections aside and order another election, in like manner to be held by the same or other inspectors to be by him appointed. If any person fails to qualify within thirty days after he shall have been declared elected, the judge of probate may appoint some person to fill such vacancy. The judge shall make a record of the proceedings in the matter of such incorporation and election of officers and file in the office of the secretary of state a certified copy of the entry showing the result of the elections preceding. The costs of all the aforesaid proceedings shall be paid by the town or city; but if no judgment is entered establishing the town or city, they shall be paid by the petitioners, and judgment shall be entered dismissing such proceedings.

Aug. 13,
1907, p.
700, § 10.

1059. Dormant municipalities reinstated.—Towns or cities that have permitted their organizations to become dormant and inefficient may, by a petition of a majority of the taxpayers of such town or city to the probate judge, have their corporate organization reinstated by an order of the probate judge, entered of record, and thereupon he shall appoint a mayor and councilmen for such town or city, who shall hold their offices until the next regular election thereafter and until their successors are elected and qualified.

Ib., § 11.

1060. Census of municipalities provided for.—Municipal corporations may, by ordinance, require a census to be taken of the inhabitants residing within the corporate limits of such municipality. Such census shall be taken by enumerators, who shall be responsible citizens, appointed by the mayor and confirmed by the council. Such enumerator or enumerators shall take such census block by block, and shall state, as far as practicable, the name, age, sex, and color of each person residing within such municipality. They shall, before entering upon their duties, take and subscribe to the following oath: "I solemnly swear that I will honestly and conscientiously enumerate the inhabitants living within the town or city, or portion thereof allotted to me for enumeration."

Ib., § 12.

Aug. 18,
1907, p.
790, § 12.

1061. Alphabetical arrangement of census.—Such enumeration shall be alphabetically arranged and returned to the mayor, together with the original books of enumeration. The mayor shall thereupon certify to the secretary of state the result of such census, giving the total number of each race residing within the corporate limits of the municipality, and the result so certified by the mayor under the seal of the municipality, attested by the clerk, shall be the official census of such city or town until the next federal census or until a new enumeration shall have been taken. When a municipal census shall have been taken in an odd year, it shall not be necessary to take a separate school census in such municipality during such year, but such school census shall be taken from the result of the enumeration made by the municipality, and certified as required by law to the state superintendent of education.

Ib., § 14.

1062. Wards, municipalities divided into.—The councils of the several cities may, by ordinance, divide such city into not less than three nor more than fourteen wards, except as otherwise provided herein, and the numbers and boundaries of such wards may be fixed and changed at any time, except as herein restricted. The several councils, respectively, of cities, at least six months previous to the first general municipal election held under the provisions of this chapter, shall divide such cities into wards, having as nearly as may be the same number of inhabitants, the lines thereof conforming to the center of the streets or alleys, and being rectangular as far as practicable. Ward lines having once been fixed, shall not be changed by the council within three months previous to an election, nor within eighteen months of the time last established, except in the case of a census showing a population authorizing a change in the form of government, or unless within such time additional territory shall have been annexed to such city, when such councils shall have the right to create new wards or annex such territory to wards already established.

Ib., § 15.

1063. Elections, time of holding.—The regular municipal elections in cities and towns shall be held on the third Monday in September, 1908, and biennially thereafter. Municipal officers elected at such elections shall assume the duties of their respective offices on the first Monday in October following such election, unless herein otherwise provided. The voting places shall be fixed by the council, one or more voting places for each ward, where such city or town has been divided into wards, and the election shall be conducted in the manner provided by law for general elections, except as otherwise provided in this chapter.

Ib., § 16.

1064. Officers enumerated; time of election.—In cities having a population of six thousand or more, at each general

Incorporation, Mode of; Election for.

municipal election, there shall be elected the following officers, who shall compose the city council for such cities, and who shall hold office for two years and until their successors are elected and qualified, and who may exercise the legislative functions of city government and any other powers and duties which are, or may be, vested by law in the city council or its members: A president of the city council; and, in cities having seven wards or less, two aldermen from each ward, to be elected by the qualified electors of the several wards voting separately in every ward; in cities having more than seven wards, one alderman from each ward and a sufficient number of aldermen from the city at large to make the total number of aldermen fourteen, exclusive of the president of the council; and in cities having fifty thousand inhabitants or more, the city council may create not exceeding twenty wards. The governing body as now organized of any city of more than thirty-five thousand population, according to the last federal census, desiring a different organization of the legislative department of the city government than the above, to be effective at the expiration of its present organization, as provided in section 1047 of this Code, may, within thirty days after the 13th day of August, 1907, by ordinance, elect to have the following legislative officers of this city: A president of the council, to be elected at each biennial municipal election by the qualified voters of the city, and two aldermen from each ward, to be elected by the qualified electors of the respective wards. One alderman from each ward to be elected biennially. The terms of such aldermen to be four years, or until their successors are elected and qualified. Such governing body shall have full power and authority to provide for the organization of the council under this provision, including the election of long and short-term aldermen at the general municipal election in 1908, if that be necessary. Provided, however, that the aldermen of each city taking advantage of this provision shall serve until the general municipal election nearest the expiration of their terms and until their successors are elected and qualified. Vacancies in the office of aldermen shall be filled by the council at the next regular meeting or any subsequent regular meeting of the council, the person so elected to hold for the unexpired term.

1065. Qualifications of officers.—The council shall judge of the qualifications and election of the mayor, the president of the council, and of each alderman, and such other officers as may be elected by the people, and the resolutions and ordinances that may be adopted by the city council, under this section, shall not be subject to the approval or disapproval of the mayor. Whenever the population of any city exceeds fifty

Aug. 13,
1907, p.
790, § 16.

thousand, the council may increase the number of wards and aldermen therefor, a ward for every four thousand population over fifty thousand.

Aug. 18,
1907, p.
790, § 17.

1066. Cities of six thousand inhabitants; officers, terms of.— In cities having a population of more than six thousand, there shall be elected by the council, at its first regular meeting or as soon thereafter as practicable, a city treasurer, a city clerk, who shall be residents of such cities, and a city attorney, who shall hold office until the next general election and until their successors are elected and qualified, and such council may elect an auditor, a recorder, and any officers whose election is required by ordinance and except as otherwise provided, the council shall have authority to fix the terms of office; prescribe their duties; and fix the salaries of the officers; provided, that such council may, by a two-thirds vote of the members elected, by and with the consent of the mayor, consolidate two or more of the offices, and may abolish any such offices, the term of office of no incumbent to be diminished.

Ib.

1067. Cities of less than six thousand inhabitants; officers; terms of office.— In cities having a population of less than six thousand and in towns, the council shall elect a clerk, and may elect a recorder, and fix their salary and term of office, and may determine by ordinance the other officers of such city or town, their salary, the manner of their election, and the term of office, but there shall be no recorder in towns.

Ib., § 18.

1068. Mayor, when elected; no vote.— In all cities and towns, at the general election to be held on the third Monday in September, 1908, and biennially thereafter, there shall be elected a mayor, who, in cities having a population of six thousand or more, shall not sit with the council nor have a vote in its proceedings, and he shall have the power and duties herein conferred. In cities having a population of less than six thousand, and in towns, the legislative functions shall be exercised by the mayor and five aldermen; the mayor shall sit with and preside over the deliberations of the council and cast a deciding vote in case of a tie; the aldermen in such municipalities shall be elected by the city or town at large at the first general election, on the third Monday in September, 1908, and biennially thereafter, they shall be elected by the city or town at large, or from wards, as the said councils may determine not less than six months before an election.

Ib., § 19

1069. Mayor and council; qualifications; eligibility of.— Every mayor, councilman, and officer elected by the whole electorate of the city or town, shall be a resident and qualified elector of the city or town in which he shall have been elected, and shall reside within the limits of the city or town during his term of office. The councilmen shall be qualified electors of

Limits, Annexation and Boundaries of Municipalities; Extension of. said city or town residing within the limits of the ward from which they shall have been elected, and shall reside within the limits of said ward during the term of his office.

ARTICLE 3.

LIMITS, ANNEXATION AND BOUNDARIES OF MUNICIPALITIES; EXTENSION OF. 1070-1074.

SECTION.

- 1070. Mode and process of extending limits and boundaries.
- 1071. Election for extending boundaries, and annexation.

SECTION.

- 1072. Subsequent extension of limits.
- 1073. Subsequent elections not held within six months.
- 1074. Name, city or town; change of.

1070. Mode and process of extending limits and boundaries. Aug. 13, 1907, p. 790, § 23.
 —Any town or city may, from time to time, extend its corporate limits in the manner set forth herein, but the provisions of this chapter shall not preclude any city from extending its corporate limits in any other way or manner that may be authorized by law.

1071. Election for extending boundaries, and "annexation." ib.
 —Whenever the council shall pass a resolution to the effect that the public health or public good requires that certain territory, describing it, shall be brought within the limits of the city or town: (1) It shall be the duty of the mayor to certify a copy of such resolution to the judge of probate of the county in which the land is situated proposed to be annexed and said certified resolution shall have attached thereto a plat or map of the said territory, which certified resolution and plat or map shall be filed by the judge of probate. (2) Within ten days from the date of the filing of such resolution, the judge of probate must make and enter an order upon the minutes of said court, directing and ordering an election to be held by the qualified electors residing within the territory described, not less than twenty days nor more than forty days from the date of the making of the order. The said judge shall give notice of the holding of such election by publication in a newspaper published within the city or town whose limits are proposed to be extended if a newspaper is published therein, and if no newspaper is published in said municipality, then by posting notices at three public places in such municipality, which notice shall state the day on which such election is to be held, the voting place or places, the boundaries within which voters must reside to vote at the respective voting places, which must be within the territory proposed to be brought into the city, or town, and such notice must give a description of the territory proposed to be annexed, and must

Limits, Annexation and Boundaries of Municipalities; Extension of.

state that a map of such territory is on file in the office of the judge of probate of said county, open to the inspection of the public. (3) The judge of probate may designate as many places within the territory proposed to be annexed as he may deem necessary for the convenience of the voters and must designate the boundaries within which the voters must reside to vote at the respective voting places, and shall appoint three inspectors of election and one returning officer for each voting place, which inspectors shall manage the election at the respective voting places at which they are appointed as inspectors. (4) Each qualified elector who has resided within the boundaries of the territory proposed to be brought into the city or town for three months next preceding the election, may vote at such election, but must vote at the voting place designated by the judge of probate for voters in the territory in which he resides. (5) The election to determine whether or not the proposed territory shall be brought within such corporate limits must be conducted in all respects as provided by the general election laws, and under the same sanction and penalties, except as changed by the provisions hereof, and except that an official ballot need not be provided. (6) Each voter may furnish his own ballot with the following words written or printed thereon, "For Annexation," if he desires to vote in favor of annexing the territory to the city, or "Against Annexation," if he desires to vote against annexing the territory to the city or town. It shall not be necessary for the ballot to be of any particular size, form, or color. (7) The inspectors at the respective voting places must, as soon as the polls are closed, ascertain and certify the results of the election, at their respective voting places, to the judge of probate, and deliver the same to the returning officer, who must at once return the same to the judge of probate, and the judge of probate must canvass the return as made by the inspectors, and if it appears that a majority of the votes cast at the election were "For Annexation," the judge shall make and enter an order on the records of the probate court adjudging and decreeing the corporate limits of the city or town to be extended so as to embrace the territory described in the resolution and designated on the plat or map attached to the resolution, and must cause the certified resolution and the map and all orders or decrees or judgments to be recorded in the records in his office, and from the time of the entry of such order such territory shall be a part of and within the corporate limits of the city or town. If it appears that a majority of the votes cast at the election are "Against Annexation," the judge of probate shall make and enter an order on the records of the court adjudging and decreeing that a

Limits, Annexation and Boundaries of Municipalities; Extension of.

majority of the votes at such election were cast against coming into the corporate limits of the city or town, and that the territory described and designated in the resolution and plat or map attached shall not form a part of or be embraced in the city or town until it may thereafter be brought into the city or town as a part thereof. (8) The result of such election may be contested by any qualified elector voting at the election under the same provisions as are provided by general law for contesting the election of justice of the peace, making the city or town the contestee. The city or town at whose instance the election is held shall pay all cost and expense incident to the election. (9) The plat or map filed with the certified copy of the resolution, as required herein, shall show the boundary of the territory proposed to be taken into the city, or town, which territory must be contiguous to the boundary of the city, or town, at some point, and such territory may extend to or around the boundary line of any other city or town, but is not to embrace any territory within the corporate limits of another municipality.

All territory brought within the corporate limits of a city or town under the provisions of this article, shall be subject to its laws and ordinances and the council shall have and exercise the same jurisdictions over such territory as is exercised over the other territory within the corporate limits of the city or town.

The council may create new wards or may enlarge the wards so as to embrace all the territory brought within the corporate limits of the city or town, so as to afford opportunity to all persons entitled to vote at elections in the city or town to vote thereat.

The probate judge shall be entitled to the same fees for his services performed under the provisions hereof as he is authorized by law to charge and collect for similar services rendered by him, and all other officers shall be entitled to the same compensation for services rendered by them as they are authorized by law to charge and collect for similar services rendered by them, and the city at whose instance the service is performed under the provisions hereof shall pay all cost and expense thereof except in the case of a contest as herein provided.

1072. Subsequent extension of limits.—Any city or town having extended its corporate limits under the provisions of this article or other law may again extend its corporate limits hereunder or under any other law authorizing an extension of corporate limits by such city or town.

Aug. 18,
1907, p.
700, § 23.

In every proceeding to extend the corporate limits of any city or town under the provisions hereof, the council of such

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

city or town shall declare in each and every resolution herein provided for and the probate judge shall declare in each and every order directing and ordering an election to be held hereunder, and in every notice given hereunder, and in every order made and entered on the records of the probate court hereunder, that such resolution, order, or notice, as the case may be, is passed, given, or entered under the provisions of this article.

Aug. 13,
1907, p.
790, § 23.

1073. Subsequent elections not held within six months.—After an election has been held in any territory under the provisions of this article or any other law, no other or subsequent election shall be ordered or held for the same territory or any part thereof within six months next after said election.

ib., § 24.

1074. Name, city or town; change of.—Any city or town may change its corporate name by passing an ordinance stating the new name proposed and submitting the question of change to a vote of the qualified electors of such municipality at the next general municipal election to be held therein. The result of the election shall be ascertained by the officers holding such general election and return shall be made to the council which, in the event that a majority of the votes cast at such election are in favor of the change, shall pass a resolution or ordinance declaring the result of the election and stating the new name of the city or town.

ARTICLE 4.

EXTENSION OF LIMITS OF CITIES OF TWENTY-FIVE THOUSAND INHABITANTS; RIGHTS, POWERS AND DUTIES OF CITIES SO EXTENDED. 1075-1125.

SECTION.

- 1075. Power to extend corporate limits.
- 1076. Resolution to extend corporate limits.
- 1077. Copy of resolution and map or plat of proposed territory certified to probate judge.
- 1078. Probate judge orders election.
- 1079. Notice and publication of such election.
- 1080. Probate judge designates places for holding elections and territory of voters.
- 1081. Probate judge appoints managers and officers of elections.
- 1082. Qualification of voters.
- 1083. Election conducted under general election law; exceptions.
- 1084. Ballot, character and preparation of.

SECTION.

- 1085. Result ascertained and certified.
- 1086. Canvassing returns; orders and decrees relating to.
- 1087. Contest of election.
- 1088. Costs of election.
- 1089. Plat or map of annexed territory.
- 1090. Property of annexed territory exempt from taxation.
- 1091. Property of annexed territory subject to taxation after five years.
- 1092. Mining, manufacturing, or industrial plants exempt from taxation.
- 1093. Resolution declaring property subject to taxation.
- 1094. Notice to owners of property to show cause why property should not be taxed.

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

SECTION.

- 1095. Joint or several notices or resolutions.
- 1096. Contest of right to tax property.
- 1097. Decree of court adjudging property subject or not subject to tax; contents of.
- 1098. Hearing and proceedings on contest of right to tax.
- 1099. Appeal by property owner to circuit court provided for.
- 1100. Notice of appeal.
- 1101. Papers transmitted and certified on appeal.
- 1102. Judgment or decree on appeal.
- 1103. Clerk of circuit court certifies back to probate judge.
- 1104. When property becomes subject to taxation.
- 1105. Annexed territory subject to municipal laws.
- 1106. Wards created; aldermen and councilmen provided for.
- 1107. Wards divided into voting precincts.
- 1108. Wards changed and rearranged.
- 1109. Persons exempt from taxes not entitled to benefits, except as to police and fire protection.
- 1110. Sanitary sewers and local improvements provided for.
- 1111. Sidewalks; curbing; assessments against abutting owners for.
- 1112. Street and road tax.

SECTION.

- 1113. Road and bridge tax for county apportioned to city.
- 1114. License or permits for sale of liquors, dance halls, pool rooms, etc.
- 1115. Local improvements and betterments in exempt territory.
- 1116. License or privilege tax for doing business; limitations upon.
- 1117. Privilege or license tax of quasi public or utility corporations; limitations upon.
- 1118. License or privilege taxes to exempt territory.
- 1119. Schools; funds and management of within extended territory.
- 1120. Cities of exempt territory may apply to be attached and taxed as other property.
- 1121. Fees or compensation of probate judge under this article.
- 1122. Provisions of this article held to be contract between city and property owners.
- 1123. Two or more extensions allowed.
- 1124. Records or proceedings must affirmatively show that extension was had under this article.
- 1125. Subsequent election not held within six months of preceding.

1075. Power to extend corporate limits.—Any city having twenty-five thousand inhabitants or more, as shown by the next preceding Federal census, or the state census, from time to time, may extend its corporate limits in the manner and with the rights, powers, and privileges as set forth herein, but the provisions of this article shall not preclude any city from extending its corporate limits in any other way or manner that may be authorized by law. Mar. 13, 1907, p. 852, § 1; Aug. 13, 1907, p. 604, § 1.

1076. Resolution to extend corporate limits.—The council or governing body of the city may pass a resolution to the effect that the public health or public good requires that certain territory, describing it, shall be brought within the limits of the city. Ib., § 2.

1077. Copy of resolution and map or plat of proposed territory certified to probate judge.—The mayor or other executive head of the city shall certify a copy of such resolution to the judge of probate of the county in which the land is situated Ib.

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

proposed to be brought into the city, and said certified resolution shall have attached thereto a plat or map of the territory proposed to be brought into the corporate limits of the city, which certified resolution and plat or map shall be filed with the judge of probate.

Mar. 13,
1907, p.
352, § 1;
Aug. 13,
1907, p.
604, § 2.

1078. Probate judge orders election.—Within ten days of the date of the filing of such certified copy of resolution, with plat or map attached, the judge of probate must make and enter an order upon the minutes of said court, directing and ordering an election to be held by the qualified electors residing within the territory described in such plat or map, not less than twenty days nor more than forty days from the date of the making of the order.

Ib.

1079. Notice and publication of such election.—The said judge shall give notice of the holding of such election by publication in at least one newspaper, and at the discretion of the judge, in more than one newspaper, published in the county wherein such election is to be held, which notice shall state the day on which such election will be held, the voting place or places at which the election will be held, the boundaries within which voters must reside to vote at the respective voting places, which must be within the territory proposed to be brought into the city, and such notice must give a description of the territory proposed to be brought within the city, and must state that a map showing the territory proposed to be brought into the city is on file in the office of the judge of probate of said county, open to the inspection of the public.

Ib.

1080. Probate judge designates places for holding elections and territory of voters.—The judge of probate may designate as many places within the territory proposed to be annexed as he may deem necessary for the convenience of the voters, and must designate the boundaries within which the voters must reside to vote at the respective voting places.

Ib.

1081. Probate judge appoints managers and officers of elections.—The probate judge shall appoint three inspectors of election and one returning officer for each voting place, which inspectors shall manage the election at the respective voting places at which they are appointed inspectors.

Ib.

1082. Qualification of voters.—Each qualified voter who has resided within the boundaries of the territory proposed to be brought into the city for three months next preceding the election, may vote at such election, but must vote at the voting place designated by the judge of probate for voters in the territory in which he resides, within the territory proposed to be brought into the city.

Ib.

1083. Election conducted under general election law; exceptions.—The election to determine whether or not the proposed

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

territory shall be brought within the corporate limits of the city must be conducted in all respects as provided by the general election laws, and under the same sanction and penalties, except as changed by the provisions of this article and except that an official ballot need not be provided.

1084. Ballot; character and preparation of.—Each voter may furnish his own ballot, with the following words written or printed thereon: "For Annexation," if he desires to vote in favor of annexing the territory to the city, or "Against Annexation," if he desires to vote against annexing the territory to the city. It shall not be necessary for the ballot to be of any particular size, form, or color.

Mar. 18,
1907, p.
352, § 1;
Aug. 13,
1907, p.
604, § 2.

1085. Result ascertained and certified.—The inspectors at the respective voting places must, as soon as the polls are closed, ascertain and certify the results of the election at their respective voting places to the judge of probate and deliver the same to the returning officer, who must at once return the same to the judge of probate.

1086. Canvassing returns; orders and decrees relating to.—The judge of probate must canvass the returns as made by the inspectors, and if it appears that a majority of the votes cast at the election were in favor of "For Annexation" the judge shall make and enter an order on the records of the probate court adjudging and decreeing the corporate limits of the city to be extended so as to embrace the territory described in the resolution and designated on the plat or map attached to the resolution, and must cause the certified resolution and all orders or decrees or judgments to be recorded in the records in his office, and must also cause the map or plat to be recorded in the map records in his office, and from the time of the entry of such order such territory shall be a part of and within the corporate limits of the city with the limitations, rights, powers, and privileges set forth in this article. If it appears that a majority of the votes cast at the election are "Against Annexation," the judge of probate shall make and enter an order on the records of the court adjudging and decreeing that a majority of the votes cast at such election were cast against coming into the corporate limits of the city, and that the territory described and designated in the resolution and plat or map attached shall not form a part of or be embraced in the city until it may thereafter be brought into the city as a part thereof.

1087. Contest of election.—The result of such election may be contested by any qualified elector voting at the election, as is provided by general law for contesting the election of justice of peace, making the city the contestee.

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

Mar. 18,
1907, p.
362, § 2;
Aug. 18,
1907, p.
404, § 2.

1088. Costs of election.—The city at whose instance the election is held shall pay all cost and expense incident to the election.

1b.

1089. Plat or map of annexed territory.—The plat or map filed with the certified copy of the resolution as required in this article should show the boundary of the territory proposed to be taken into the city, which territory must be contiguous to the boundary of the city at some point, and such territory may extend to or around the boundary line of any other city, but is not to embrace any territory within the corporate limits of another city.

1b., § 3.

1090. Property of annexed territory exempt from taxation.—All territory brought within the corporate limits of a city under the provisions of this article, and all property having a situs within such territory, shall be exempt from city taxation or the payment of taxes to the city for the period of not less than ten nor more than fifteen years from the time when such territory is brought within the corporate limits of the city, which period of exemption shall be fixed in the resolution passed by the council or governing body of the city authorized under the provisions of section 1076 of this Code, except as provided in sections 1091 and 1092 of this Code.

1b.

1091. Property of annexed territory subject to taxation after five years.—From time to time after the lapse of five years from the time when such territory is brought within the corporate limits of the city, all portions of such territory as has residing on it a population of at least twenty persons on a contiguous ten acres of land (in the form of a square or any other shape) and all property having a situs on such populated territory, shall thereafter be subject to taxation by the city and taxes thereon shall be paid to the city.

1b.

1092. Mining, manufacturing, or industrial plants exempt from taxation.—All portions of such territory which is at the time it is brought within the corporate limits of the city used or occupied as or as a part of a mining, manufacturing, or industrial plant or construction, or which is used or occupied as or as a part of a railroad or street railroad, or for any other quasi public use, and continues to be so used, and all property having a situs on such territory (but not including residences, dwelling-houses, storehouses, commissaries, warehouses, or the land on which they are situated) shall be exempt from city taxation for a period of ten years; and all portions of such territory which, after it is brought within the corporate limits of the city, is used or occupied by a new construction as or as a part of mining, manufacturing, or industrial plant or construction, or which is used or occupied as or as a part of a railroad or a street railroad, or for any other quasi public

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

use, and continues to be so used, and all property having a situs on such territory (but not including residences, dwelling-houses, storehouses, commissaries, warehouses, or the land on which they are situated) shall be exempt from city taxation for the period of ten years from the time of construction, use, or occupation; but in no event is the exemption to extend beyond fifteen years from the time when such territory is brought within the corporate limits of the city.

1093. Resolution declaring property subject to taxation.—Mar. 13, 1907, p. 352, § 3; Aug. 13, 1907, p. 604, § 3. Whenever, and as often as the facts exist which authorize a city to collect taxes from and on any portion of the territory brought within the corporate limits under the provisions of this article, the council or governing body of the city shall pass a resolution, declaring the territory describing it in the resolution, subject to taxation, and thereupon the mayor or governing head of the city shall make and file with the judge of probate of the county in which the city is situated a certified copy of such resolution, together with a map of such territory attached thereto showing respectively the land owned by the respective owners, if the owners are known, or "unknown owners" where owners are not known.

1094. Notice to owners of property to show cause why property should not be taxed.—ib. The mayor or other governing head of the city, within five days of the time he files the certified copy of such resolution, with map attached as herein provided, shall give notice by publication once a week for three successive weeks in some newspaper published in the city, to the person or persons owning the land described in the resolution, of the passing of the resolution by the council or governing body, and further state in said notice that a certified copy of the resolution, with map attached, is on file in the office of the judge of probate of the county, and citing the property owner, or owners (without naming them), to appear before the judge of probate of said county on a day fixed in the notice, which must not be less than thirty days from the first publication of the notice, to show cause, if any, why said land or any part thereof, or property having a situs thereon, should not thereafter pay taxes to the city, or be subject to taxation by the city.

1095. Joint or several notices or resolutions.—ib. Land owned by any number of separate and distinct owners may be embraced in the same resolution passed by the board or governing body of the city, and notice of citation by publication may be given to all owners by the mayor in one notice, but each owner shall have the right of contest as provided in this article as to any land owned by him.

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

Mar. 13,
1907, p.
352, § 3;
Aug. 13,
1907, p.
604, § 3.

1096. Contest of right to tax property.—On the day fixed in the notice, or any day to which said cause may be continued, any owner of any of the property declared to be subject to taxation by the city in the resolution, may file with the judge of probate a contest, contesting the right of the city to tax any of the land or property owned by him, assigning as grounds for such contest the non-existence of some one or more of facts herein required to be in existence before the property is subject to city taxation. A separate case shall be docketed of the city against the property owner, naming him, as to each property owner who files a contest, and thereafter such cause shall be a separate and distinct cause.

1b.

1097. Decree of court adjudging property subject or not subject to tax; contents of.—On the day fixed in the citation published by the mayor for the hearing before the judge of probate, or the day to which such cause is continued, as to such property owner or owners as do not file a contest, the judge of probate shall render a decree adjudging that the land owned by such property owner, or owners, and all property having a situs thereon, shall thereafter be subject to taxation by the city, and taxes thereon shall be paid to the city, and shall cause the map attached to certified resolution passed by the board or governing body of the city to be recorded in the map records in the office of the judge of probate of said county, and shall cause to be recorded in the proper records of the judge of probate the certified resolution passed by the board or governing body of the city, and after the said map is recorded, the judge of probate shall endorse on said map, "adjudged subject to city taxation," on such portion of the property covered by said map as is adjudged to be subject to city taxation.

1b.

1098. Hearing and proceedings on contest of right to tax.—As to each contested cause, the judge of probate may set the same for hearing at such time as he sees fit, and on the hearing shall hear such evidence as is introduced by either the property owner or the city, and shall determine as to whether or not the facts which authorize the property to be taxed by the city under the terms hereof did or did not exist at the time the certified resolution was passed by the board or governing body of the city. If the judge of probate decides that the requisite facts did exist at the time of the passing of the resolution, he shall render a decree adjudging that thereafter the property, describing it, shall be subject to taxation by the city, and that taxes thereon shall thereafter be paid to the city. If the judge of probate decides that the requisite facts did not exist at the time of the passing of said resolution, the judge of probate shall render a decree adjudging that the land and

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

property having a situs thereon is not subject to taxation by the city, and that taxes thereon shall not be paid to the city until the facts thereafter authorize such taxation in accordance with the provisions hereof.

1099. Appeal by property owner to circuit court provided for.—The property holders of the city shall have the right to appeal from the judgment of the judge of probate to the circuit court of the county in which the land is situated, or other court of like jurisdiction, within ten days from the rendition of the judgment by the judge of probate, the property owner giving security for cost of appeal, to be approved by the judge of probate, if the appeal is taken by the property owner. On an appeal taken by either party, the cause shall be docketed and tried de novo in the circuit court, or court of like jurisdiction, without jury unless trial by jury be demanded by the party taking the appeal at the time of taking the appeal, evidenced by a paper writing filed in the cause, or unless a trial by jury be demanded by the other party in the cause by paper writing filed in the cause within ten days from the time that notice of such appeal is served on him or it.

Mar. 13,
1907, p.
362, § 3;
Aug. 13,
1907, p.
604, § 3.

1100. Notice of appeal.—The judge of probate, within ten days after an appeal is taken, shall issue notice to the opposite party of the appeal, and place such notice in the hands of the sheriff of the county, and the sheriff shall serve such notice upon the party to whom the same is issued, and make return thereof to the said judge of probate; provided, however, that if the city takes the appeal, such notice issued to the property holder may be served upon the property holder or his agent or attorney, and if the property holder, his agent or attorney cannot be found by the sheriff, upon any person over the age of twenty-one years residing on or having custody of the property of such property owner.

1101. Papers transmitted and certified on appeal.—If an appeal is taken the judge of probate shall transmit all papers in the cause, except the map and certified resolution, to the clerk of the court to which the appeal is taken, and such map and certified resolution, after the same have been recorded by the judge of probate as herein provided in this article, may be withdrawn from the file in the judge of probate's office by either party for use in the trial of the cause in the circuit court, or court of like jurisdiction, but must be returned to the judge of probate immediately after the trial of said cause in the circuit court, or court of like jurisdiction.

1102. Judgment or decree on appeal.—If on the trial in the circuit court, or court of like jurisdiction, it be adjudged that the requisite facts did exist subjecting the land and property

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

having a situs thereon to taxation by the city, a judgment shall be rendered adjudging that the land and property having a situs thereon be, and the same is, subject to taxation by the city, and that the taxes thereon shall be paid to the city. If it be adjudged that the requisite facts did not exist, a judgment shall be rendered adjudging that the land and property having a situs thereon is not subject to taxation by the city, and the cost of appeal and of contest shall be adjudged against the losing party. Either the city or the property owner may appeal from the judgment of the circuit court, or court of like jurisdiction, to the supreme court within the time and in the same manner as is provided by law for an appeal from such court in an analogous cause. In each contested cause before the judge of probate, where judgment is rendered adjudging that the property is subject to city taxation, and where there is no appeal from such judgment, the judge of probate, as soon as the time for an appeal has expired, shall make an endorsement on the records of said map across the property in contest as shown on said map, "Adjudged subject to city taxation."

Mar. 13,
1907, p.
352, § 3;
Aug. 13,
1907, p.
604, § 3.

1103. Clerk of circuit court certifies back to probate judge.—If there is an appeal from the judgment rendered by the probate judge, and on the termination of such appealed cause it is adjudged that the property in controversy is subject to city taxation, the clerk of the circuit court, or court of like jurisdiction, shall briefly certify to the judge of probate that it has been adjudged that the property is subject to city taxation, and thereupon the judge of probate shall endorse upon the record of said map on the property in controversy as shown on said map, "Adjudged subject to city taxation."

1b.

1104. When property becomes subject to taxation.—All property adjudged to be subject to city taxation under the provisions of this article shall be liable for the payment of taxes to the city from and after the commencement of the city tax year, commencing next after the time of the passing of the resolution by the board of aldermen, or governing body of the city, embracing the property adjudged to be subject to city taxation. The judge of probate shall cause to be recorded in the record of his office the certified copy of resolution filed by him, together with map attached, and all orders and decrees or judgments rendered by him, and the certificate of the clerk of the circuit court, or court of like jurisdiction, filed with him, in any appealed cause, but the said map is to be recorded in the map records as provided in this article.

1b., § 4.

1105. Annexed territory subject to municipal laws.—All territory brought within the corporate limits of a city under the provisions of this article shall be subject to the laws and

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

ordinances of said city, and the council or governing body of the city shall have and exercise the same jurisdiction over such territory as is exercised over the other territory within the corporate limits of the city, except as herein restricted, and except as may be restricted by ordinance or resolution passed by the council or governing body of the city.

1106. Wards created; aldermen and councilmen provided for.—The council or governing body of the city shall create new wards (as many as may be deemed to be necessary) regardless of any limitation in the charter of the city on the number of wards, or may enlarge the wards, so as to embrace all territory brought within the corporate limits of the city, and so as to afford opportunity to all persons entitled to vote at elections in the city to vote thereat. Each ward in the city shall have the same number of aldermen or representatives in the council or governing body of the city, and as new wards are created the council or governing body of the city shall elect aldermen or representatives to represent such wards in the council or governing body of the city, as in the case of vacancy; the aldermen or representatives so elected to hold office until the next regular election in the city; provided, however, that no person residing on territory which is exempt from taxation under provisions hereof shall have any right to vote in any election held in the city for the election of any city officer, or in any other election held in the city which pertains to the government of said city, but no person who resides in territory exempt from taxation under the provisions of this article shall be eligible to hold any elective office in said city, and in no event shall there be more than thirty aldermen or representatives in the council or governing body of the city.

Mar. 13,
1907, p.
262, § 5;
Aug. 13,
1907, p.
801, § 5.

1107. Wards divided into voting precincts.—The council or governing body of the city shall by resolution or ordinance divide the respective wards in the city into voting precincts, as many as may be necessary, and each elector shall vote in the precinct of his residence, and the boundary of such voting precinct shall be arranged and re-arranged from time to time so, as near as practicable, that not exceeding four hundred electors reside in any voting precinct.

Ib., § 6.

1108. Wards changed and re-arranged.—The council or governing body of the city shall have the power to change or re-arrange lines of wards in said city as often as necessary for the purpose of equalizing the number of voters entitled to vote in each ward in the city, and each ward in the city shall have as near as practicable an equal number of qualified electors.

Ib., § 7

1109. Persons exempt from taxes not entitled to benefits, except as to police and fire protection.—No person residing in

Ib., § 8.

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

territory exempt from taxation in the city shall be entitled to receive any of the benefits derived from taxes paid to the city, except that as far as practicable it shall be the duty of the city to give police and fire protection to persons and property in the exempt district.

Aug. 18,
1907, p
604, § 9.

1110. Sanitary sewers and local improvements provided for.—The council or governing body of the city shall have the right to construct or cause to be constructed sanitary sewers and enforce sanitary connections in the territory exempt from city taxation under the provisions of this article, and assess the cost and expense thereof against the abutting property in the same manner and under the same laws and to the same extent as it is authorized to construct similar betterments and enforce connections in the territory within the corporate limits of the city not exempt from taxation.

Ib., § 10.

1111. Sidewalks; curbing; assessments against abutting owners for.—The council or governing body of the city shall have the right to construct or cause to be constructed sidewalks and curbing in the territory exempt from city taxation under the provisions of this article, and assess the cost and expense thereof against the abutting property in the same manner and under the same laws and to the same extent as it is authorized to construct similar betterments in the territory within the corporate limits of said city which is not exempt from taxation; provided, that before said council or governing body is authorized to construct any sidewalks or curbing in territory exempt from taxation, the owners of a majority of the frontage of and to be assessed for such sidewalks or curbing, must file with the clerk of the city a written petition signed by them, requesting such betterments to be made.

Ib., § 11.

1112. Street and road tax.—The council or governing body of the city shall have the same rights and powers by and under an ordinance enacted to assess and collect a street tax from every person liable to road or street duty residing in the territory exempt from taxation, that it has to assess and collect such tax from other persons residing within the corporate limits of the city, but not in territory exempt from taxation; provided, however, that the money collected from persons residing in territory exempt from taxation shall be applied by the council or governing body of the city towards keeping up and maintaining the public roads or streets in the territory exempt from taxation, or in opening new roads or streets in such territory.

Mar. 18,
1907, p.
352, § 7;
Ib., § 12.

1113. Road and bridge tax for county apportioned to city.—In any county where a property tax is assessed and collected by the county authorities for the construction or maintenance

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

of public roads and bridges in the county, the board of revenue or court of county commissioners shall each year cause to be drawn a proper warrant payable to each city in such county having within its corporate limits territory taken in under the provisions of this article, such warrant to be for an amount equal to one-half of the road and bridge tax paid to the county on property within the corporate limits of such city. The council or governing body of such city shall use the money so paid to it by the board of revenue or court of county commissioners in keeping up and maintaining the public roads, streets, highways, and bridges, and in opening new roads, streets, highways, and constructing new bridges in the territory brought within the corporate limits of the city under the provisions of this article, the surplus of such funds, if any, to be used in keeping up and maintaining streets, highways, and bridges in any other part of the city that the board or governing body of the city may direct.

1114. License or permits for sale of liquors, dance halls, poolrooms, etc.—The council or governing body of the city shall have no authority or power to license or permit the sale of vinous, spirituous, or malt liquors, or ardent spirits of any kind or character at any place in any territory which is exempt from taxation under the provisions of this article, so long as exempt from taxation under the provisions of this article, or to license or permit any dance halls, or billiard or poolrooms, or business or occupation of any kindred or like kind or character, to be operated or carried on at another place in the territory which is exempt from taxation under the provisions of this article, so long as exempt from taxation under the provisions hereof.

Aug. 13,
1907, p.
604, § 18.

1115. Local improvements and betterments in exempt territory.—The council or governing body of the city shall have no authority or power to construct or cause to be constructed any improvements or betterments in territory which is exempt from taxation under the provisions of this article, the cost of which or any part of which is assessable against the abutting property, except as provided in this article.

Ib., § 14.

1116. License or privilege tax for doing business; limitations upon.—The council or governing body of the city shall have the authority and power to annually assess and collect a privilege or license tax from each and every person, firm, company, or corporation engaged in or carrying on any business, vocation, occupation, or profession in the territory exempt from city taxation under the provisions hereof, so long as exempt from city taxation under the provisions hereof, on the following basis: Such license tax assessed and collected from each person, firm, company, or corporation shall be in

Ib., § 15.

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

proportion to the capital employed within the territory exempt from city taxation in such trade, business, vocation, occupation, or profession, including the value of the land with improvements thereon, used in such trade, business, vocation, or occupation, and shall not exceed two dollars per thousand where the capital employed does not exceed one hundred thousand dollars; and shall not exceed one dollar per thousand on the excess of capital employed over one hundred thousand dollars up to two hundred thousand dollars; and shall not exceed fifty cents per thousand on the excess of the capital employed over two hundred thousand dollars up to three hundred thousand dollars; and shall not exceed twenty-five cents per thousand on the excess of capital employed over three hundred thousand dollars; provided, however, that if no capital is employed, or where the capital employed is less than one thousand dollars, there shall be no privilege or license tax assessed and collected. The material or supplies to be manufactured by any such person, firm, company, or corporation, and the manufactured product manufactured by any such person, firm, company, or corporation is not to be considered or counted in arriving at the capital employed in such trade, business, vocation, occupation or profession. No person who is a day laborer or working on a salary, or engaged in dairying, horticulture, poultry farming, or any other agricultural pursuit, shall pay a license or privilege tax for carrying on such business, vocation, or occupation in the territory exempt from taxation under the provisions of this article. The council or governing body of the city may assess and collect for the city a license tax from each and every transient person, firm, company, or corporation which temporarily engages in any business, vocation, occupation, or profession in the territory exempt from taxation under the provisions of this article, and may assess and collect a license tax from each show, circus, or other like entertainment exhibiting in the territory exempt from taxation under the provisions of this article, the amount of such tax to be fixed by the council or governing body of the city.

Aug. 13,
1907, p.
604, § 16.

1117. Privilege or license tax of quasi public or utility corporation; limitations upon.—The council or governing body of the city may annually assess and collect, for and in behalf of the city, a privilege or license tax from the operator of each and every common carrier, street railroad, waterworks, telephone and telegraph lines, or other quasi public business which is operated or carried on in whole or in part in the territory exempt from city taxation so long as exempt from city taxation under the provisions hereof, on the following basis: The amount of such license tax shall be in proportion

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

to the capital employed within the territory exempt from city taxation in such trade, business, or vocation, and shall not exceed two dollars per thousand where the capital employed does not exceed one hundred thousand dollars; and shall not exceed one dollar per thousand on the excess of capital employed over one hundred thousand dollars up to two hundred thousand dollars; and shall not exceed fifty cents per thousand on the excess of capital employed over two hundred thousand dollars up to three hundred thousand dollars; and shall not exceed twenty-five cents per thousand on the excess of capital employed over three hundred thousand dollars. The rolling stock of a common carrier or street railroad is not to be considered or counted in arriving at the capital employed in such trade, business, or vocation.

1118. License or privilege taxes to exempt territory.—The council or governing body of the city shall have no authority or power to levy and collect a privilege or license tax on or from any person, firm, or corporation for carrying on any business, trade, or occupation in the territory exempt from city taxation under the provisions of this article, except as herein provided.

Aug. 13,
1907, p.
604, § 17.

1119. Schools; funds and management of within extended territory.—The public schools of the city, to the extent that the same are supported and maintained by revenue derived from all sources, except appropriations, made from the city treasury derived from city taxes or other source of city revenue, shall be open to children residing in the territory exempt from taxation under the provisions of this article the same as the schools are open to the children residing within the corporate limits of the city other than the territory exempt from taxation; as to that portion of any term of the public schools in the city supported and maintained by appropriations made from the city treasury derived from city taxes or other source of city revenue, children residing in the territory which is exempt from taxation under the provisions of this article have the right to attend on the payment for the use of the city of a per capita tuition fixed (if any) by the school board or other governing body having control of the schools on a basis of what is equitable and just, taking into consideration the cost and expense of supporting and maintaining such schools for such portion of any term as is supported and maintained by and from city revenue.

ib., § 18.

1120. Cities of exempt territory may apply to be attached and taxed as other territory.—When, and as often as the owner or owners of any land situated in territory exempt from taxation under the provisions of this article shall desire, the occupants of such land to exercise all of the rights and privi-

ib., § 19.

Extension of Limits of Cities of Twenty-five Thousand Inhabitants.

leges conferred upon resident citizens not residing in territory exempt from taxation, they may apply to the council or governing body of the city by petition in writing to have such land assessed for city taxation, attaching to such petition a map of such land showing the location of the same. If the council or governing body assent to such petition a resolution shall be passed by such council or governing body to that effect, and the mayor of such city shall endorse on such map or plat a certificate certifying that the petition was filed for the land shown on the map to be taxed by the city, and that the council or governing body assent to the taxing of such land, which map so certified must be filed and recorded in the probate office of the county wherein the land is situated, and thereafter such land and property having a situs thereon shall be subject to taxation by the city, and taxes thereon shall be paid to the city, and all persons residing in such territory shall thereafter have and exercise the same rights and privileges as other citizens residing in the city other than in territory exempt from taxation.

Mar. 13,
1907, p.
352, § 8;
Aug. 18,
1907, p.
604, § 20.

1121. Fees or compensation of probate judge under this article.—The probate judge shall be entitled to the same fees for services performed under the provisions of this article as he is authorized by law to charge and collect for similar services rendered by him, and all other officers shall be entitled to the same compensation for services rendered by them as they are authorized by law to charge and collect for similar services rendered by them, and the city at whose instance the service is performed under the provisions of this article shall pay all cost and expense thereof, except in case of a contest as provided in this article.

Ib., § 21.

1122. Provisions of this article held to be contract between city and property owners.—The provisions of this article shall be held to be a contract by and between the city and persons or corporations owning property in the territory exempt from taxation under the provisions of this article, and no amendment hereof or subsequent law shall confer upon the city other or different rights and powers as to such territory as is exempt from taxation so long as such territory remains exempt from taxation under the provisions of this article. Any person residing in or owning property in the territory exempt from taxation under the provisions of this article shall have the right in any court having jurisdiction to prevent the city from exercising any other or different powers in the territory exempt from taxation or any part thereof than the powers authorized under the provisions of this article.

Mar. 13,
1907, p.
352, § 9.

1123. Two or more extensions allowed.—Any city having extended its corporate limits under the provisions of this

Consolidating Municipalities.

article or any other act or law, may again extend its corporate limits hereunder or under any other act or law authorizing an extension of corporate limits by such city or town. Aug. 18, 1907, p. 604, § 23.

1124. Records of proceedings must affirmatively show that extension was had under this article.—In every proceeding to extend the corporate limits of any city under the provisions of this article the council of such city shall declare in each and every resolution provided for in this article, and the probate judge shall declare in each and every order directing and ordering an election to be held hereunder and in every notice given hereunder, and in every order made and entered on the records of the probate court hereunder, that such resolution, order, or notice, as the case may be, is passed, given, or entered under the provisions of this article. Mar. 13, 1907, p. 352, § 10; Aug. 13, 1907, p. 604, § 22.

1125. Subsequent election not held within six months of preceding.—After an election has been held in any territory under the provisions of this or any other similar law, no other or subsequent election shall be ordered or held for the same territory or any part thereof within six months next after said election. Mar. 13, 1907, p. 352, § 11; Aug. 13, 1907, p. 604, § 22.

ARTICLE 5.

CONSOLIDATING MUNICIPALITIES. 1126-1132.

SECTION.

- 1126. Mode of consolidating.
- 1127. Industrial or manufacturing plants may be exempted from taxation.
- 1128. Election ordered for consolidation.
- 1129. Consolidated municipality divided into wards.

SECTION.

- 1130. Ward commission, oath and duty of.
- 1131. Officers of consolidated corporations continued.
- 1132. Consolidated municipality, powers, duties, and rights of.

1126. Mode of consolidating.—When two or more municipalities lying contiguous to each other desire to consolidate and operate as one municipality, they may do so in the manner following: If it is the purpose to annex a city or town to another municipality, then each city or town shall express a willingness to such annexation by adopting an ordinance of the council, and the council of the municipality to be annexed shall thereupon call an election to be conducted in the same manner as other municipal elections and by officers selected by the council. Said election shall be held not less than thirty days after the passage of such ordinances. If at such election, conducted under the same sanctions and penalties as general elections, a majority of the qualified electors voting shall vote for annexation upon official ballots furnished for that purpose, then upon a canvass of the returns, made as in case of Aug. 13, 1907, p. 790, § 20.

general municipal elections, showing such results, the territory within the corporate limits of such city or town shall become a part of the annexing municipality and may be divided into wards or annexed to wards already established. Provided, that on presentation to the council of a petition signed by fifty qualified electors of the city or town, requesting an election to be held to decide whether such city or town shall be annexed to another city or town, it shall not be necessary for the council to pass an ordinance expressing a willingness to be annexed, but they shall pass the necessary ordinances providing for an election by the qualified electors of such city or town to decide such question.

Aug. 13,
1907, p.
790, § 20½.

1127. Industrial or manufacturing plants may be exempted from taxation.—The council of any city that alters and rearranges its boundary line so as to absorb two or more cities or towns, shall have the power to exempt from taxation for a period not exceeding five years, any industrial or manufacturing plant situated in the territory added to said city, provided said term of exemption shall not be renewed or extended. The council of any city or town shall also have the power to exempt from taxation for a period not to exceed ten years any industrial or manufacturing plant that may be established in said city, after the thirteenth day of August, 1907, provided said term of exemption shall not be renewed.

ib., § 21.

1128. Election ordered for consolidation.—If such municipalities desiring to consolidate wish to form a new and distinct corporate organization, to be operated under the name of either one of such municipalities or a different name, the several councils shall each pass an ordinance expressing the purpose thenceforth to operate as one municipal corporation, under the name therein mentioned, and call an election to be held simultaneously in the several municipalities, on a day designated by said ordinances, not less than thirty days after the passage thereof. Such election shall be conducted in the same manner as general municipal elections and by officers selected by the several councils. The voting places shall be designated by the councils and an official ballot shall be furnished with the words "For Consolidation" and "Against Consolidation" written or printed thereon. Said election shall be held under the same sanctions and penalties as general elections, and the returns shall be made to the councils by the proper officers. The several councils shall canvass such returns and announce the results in their respective municipalities. If a majority of the qualified electors voting in each municipality vote for consolidation, then such municipalities shall be one municipal corporation and shall operate as one municipal government.

Consolidating Municipalities.

1129. Consolidated municipality divided into wards.—The mayor and one councilman from each municipality, to be selected by the council, shall be constituted a commission to divide such consolidated municipality into wards, and if they are unable to agree, they shall call in another person who shall cast a deciding vote, and such consolidated city shall be so divided into wards as the commission or a majority of them may direct. At a day not more than thirty days after said commission has divided such city into wards, an election shall be held and conducted by officers selected by such commission conforming to the general municipal election law, at which election a mayor and the proper officers for a municipality of such size shall be elected. Officers conducting such election shall forthwith count the votes and make return to the commission, who shall declare the results of such election, and those receiving the highest number of votes shall be the officers of said consolidated city or town until the next general election, and until their successors are elected and qualified.

Aug. 13,
1907, p.
790, § 21.

1130. Ward commission; oath and duty of.—Before entering upon the discharge of their duties, the commissioners shall take an oath, before some officer authorized by law to administer oaths, to faithfully and impartially discharge their duties as such commissioners. They shall be paid for their services such amount as may be allowed by the several councils by ordinance, and the expense of such election shall be paid forthwith by the consolidated city or town. If any commissioner fails or refuses, without sufficient excuse, to act upon said commission, he shall be guilty of a misdemeanor and upon conviction therefor, in a court having jurisdiction, shall be fined not less than one hundred not more than five hundred dollars. If for any reason a member of the commission shall not act, the other commissioners shall have the right to declare his office vacant and fill the vacancy by the appointment of some suitable person.

1b.

1131. Officers of consolidated corporations continued.—The officers of the several municipalities shall continue in office and the corporate organization of the several municipalities shall continue unaffected until the officers of the consolidated town or city are elected and qualified as provided for in this chapter, and such officers so elected shall immediately qualify and assume the duties of their office.

1b., § 22.

1132. Consolidated municipalities; powers, duties, and rights of.—The consolidated city or town shall succeed to all the powers, obligations, duties, rights of action, property and rights of property that belonged to, or appertained to the municipalities consolidated, and shall have all the rights, powers, and privileges delegated to municipalities under this chapter,

1b.

Annexation and Merger of Contiguous Municipalities; Alternate Mode.

and shall be subject to all the duties, liabilities, or obligations of such municipalities. All suits pending in favor of, or against, either of the municipalities, shall continue to judgment unaffected by the consolidation, and may be enforced in favor of, or against, such consolidated city or town, the same as if commenced by or against such consolidated city or town.

ARTICLE 6.

ANNEXTION AND MERGER OF CONTIGUOUS MUNICIPALITIES; ALTERNATE MODE.
1133-1155.

SECTION.

- 1133. Commission to agree upon terms of annexation and merger.
- 1134. Mode of appointing commissioners.
- 1135. Agreement of annexation and merger; execution and confirmation of.
- 1136. Proclamation ordering election.
- 1137. Inspectors for election.
- 1138. Ballots for election.
- 1139. Result of election declared and published.
- 1140. Agreements of annexation filed in offices of secretary of state and probate judge.
- 1141. When annexation deemed to be perfected.
- 1142. Costs and expenses of annexation.
- 1143. Ownership of municipal property annexed.
- 1144. Pending actions and suits against annexed municipality.

SECTION.

- 1145. Rights of action against annexed municipality.
- 1146. Actions and suits brought by annexed municipality.
- 1147. Rights of action in favor of municipality.
- 1148. Indebtedness, liability, and obligations of annexed municipalities.
- 1149. Agreement of annexation held to be contract.
- 1150. Ordinances and resolutions of annexed municipality.
- 1151. Dissolution of annexed municipalities.
- 1152. Effect of dissolution upon rights, powers, duties, etc.
- 1153. Exemption of specific property from taxation provided for.
- 1154. Wards and aldermen of merged municipalities provided for.
- 1155. Alternate mode of annexation or merger.

Aug. 15,
1907. p.
598, § 1.

1133. Commission to agree upon terms of annexation and merger.—Any city or town may be annexed to and merged into a contiguous city or town in the manner following: The mayor of each city or town shall each appoint two persons, and the four persons thus appointed, with the mayor of each town, shall constitute a commission to agree upon terms for the annexation and merger of the one city or town into the other city or town.

Ib., § 15.

1134. Mode of appointing commissioners.—The mayor or other head of the governing body of any city or town shall appoint the commissioners provided for in the preceding section, upon the adoption of a resolution by the governing body calling for such appointment, upon a presentation of a petition to the governing body signed by one-third of the qualified electors residing within such city or town.

Annexation and Merger of Contiguous Municipalities; Alternate Mode.

1135. Agreement of annexation and merger; execution and confirmation of.—If the commission agrees upon terms of annexation and merger, such agreement shall be reduced to writing and signed in triplicate by the commissioners, or a majority thereof, and one of the triplicates of the agreement shall be presented to the council or other governing body of each city or town; and if the council or governing body of each city or town approves of the agreement reached by the commission, the council or governing body of each city or town shall pass a resolution confirming such agreement, which resolution shall be spread upon the minutes of the proceedings of such council or governing body, and the mayor of each city or town shall notify the mayor of the other city or town of the confirmation of the agreement by the council or governing body of the city or town of which he is mayor. Aug. 15,
1907, p.
598, § 1.

1136. Proclamation ordering election.—If the council or governing body of each city or town confirms the agreement, then the mayor of the city or town proposed to be annexed to the other city or town shall, by proclamation, order an election to be held on a day fixed in the proclamation in his city or town, submitting to a vote of the qualified electors in his city or town the following proposition: “Shall the agreement for the annexation of (naming the city or town) to (naming the city or town) be ratified?” and stating in such proclamation that one of the triplicates of the agreement made which is submitted for ratification, is on file in the office of the clerk of such city or town, open to the inspection of the public. 1b.

1137. Inspectors for election.—Inspectors of election in the city or town proposed to be annexed shall be appointed and the election in all particulars held in the same manner as elections are held in such city or town for election of municipal officers, except as changed by the provisions hereof. 1b.

1138. Ballots for election.—The mayor of the city or town shall cause the ballots to be used in such election to be printed with the following words thereon: “Shall the agreement for the annexation of (naming the city or town) to (naming the city or town) be ratified?” and printed on the ballot with the above quoted words immediately thereunder the words “Yes” and “No,” and the elector shall designate his choice by marking with ink or pencil a cross mark (x) in a place to be left before the word expressing his wish. The result of the election shall be ascertained in the same manner that the result of the election of city or town officers is ascertained, and the election may be contested in the same manner as is provided for the contest of any city or town officers. The ballots provided under the terms hereof need not be of any particular size, form, or color. 1b.

Annexation and Merger of Contiguous Municipalities; Alternate Mode.

Aug. 13,
1907, p.
598, § 1.

1139. Result of election declared and published.—If a majority of the votes cast in such city or town is in favor of ratifying the agreement of annexation or merger, the result shall be so declared and the mayor of each city or town shall by joint proclamation, published in some newspaper published in the city or town, or in the county, if no newspaper is published in the city or town, declare the annexation of the one city or town to the other city or town under the agreement of annexation and merger.

1b. **1140. Agreements of annexation filed in offices of secretary of state and probate judge.**—The mayor of the city or town to which another city or town is annexed under the provisions hereof shall, within ten days from the day of the issuing of the joint proclamation of annexation and merger of the one city or town into the other city or town, file with the secretary of state one of the triplicates of the agreement of annexation, which must be kept on file in the office of the secretary of state, and must also, within the said time, file one of the triplicates of the agreement of annexation in the office of the judge of probate of the county in which such city or town is situated, and the same must be recorded by the judge of probate in a record of deeds or mortgages kept in his office.

1b. **1141. When annexation deemed to be perfected.**—From the time the said triplicate of the agreement is filed in the office of the judge of probate, as herein required, the proclamations having been made and published as herein required, the one city or town shall be and shall be held to be annexed to and merged into the other city or town under the terms and provisions as set forth in the agreement of annexation and merger.

1b. **1142. Costs and expenses of annexation.**—The costs and expense incurred by each city or town previous to holding the election by the city or town proposed to be annexed to the other city or town shall be paid respectively by each city or town, and all other costs and expense incurred shall be paid by the city or town to which the other city or town is annexed.

1b., § 2. **1143. Ownership of municipal property annexed.**—All property and rights of property and assets and interests of every kind and character owned by the city or town annexed to the other city or town shall vest in and become the property and assets of the city or town to which it is annexed.

1b., § 3. **1144. Pending actions and suits against annexed municipality.**—All suits pending against the city or town annexed shall, on notice, be made a suit against the city or town annexing the other city or town, and the right to prosecute to final judgment such suit or suits against the annexing city or town shall exist the same as if the right of action originally existed against the annexing city or town.

Annexation and Merger of Contiguous Municipalities; Alternate Mode.

1145. Rights of action against annexed municipality.—All rights of action existing against the city or town annexed shall be a right of action against the city or town annexing the other city or town, and suit may be brought against the annexing city or town the same as if the right of action originally existed against the annexing city or town. Aug. 18,
1907, p.
568, § 4.

1146. Actions and suits brought by annexed municipality.—All suits pending, brought by the city or town annexed, shall, on motion, be made a suit by the city or town annexing the other city or town, and the right to prosecute such suit to final judgment by the annexing city or town, shall exist the same as if the right of action originally existed in favor of the annexing city or town. Ib., § 5.

1147. Rights of action in favor of municipality.—All rights of action existing in favor of the city or town annexed shall be a right of action existing in favor of the city or town annexing the other city or town, and it may bring suit the same as if such right of action originally existed in favor of the annexing city or town. Ib., § 6.

1148. Indebtedness, liability, and obligations of annexed municipality.—All indebtedness and liabilities of every kind and character of the city or town annexed shall be paid, or payment thereof assumed, by the annexing city or town, as between the city or town annexed and the annexing city or town, the agreement of annexation and terms thereof shall be binding as regards the payment or assumption of such indebtedness, but as to the creditor, the payment or assumption of payment by the annexing city or town shall be absolute and unconditional. Ib., § 7.

1149. Agreement of annexation held to be contract.—The agreement of annexation shall be, and shall be held to be, a contract by and between the city or town annexed and the city or town to which annexation is made, and no amendment hereof or subsequent law enacted shall in any wise abrogate or change the terms of the agreement of annexation, and any person residing in or owning property in the territory which was embraced within the city or town annexed shall have the right in a court having jurisdiction to require the annexing city or town to abide by and carry out the provisions of the agreement of annexation. Ib., § 8.

1150. Ordinances and resolutions of annexed municipality.—The council or governing body of the annexing city or town shall enact such ordinance and pass such resolutions as may be necessary, or deemed necessary to carry out the agreement of annexation, and any ordinance or resolution enacted or passed by the council or governing body of the annexed city in violation of the terms and provisions of the agreement of annexation shall be held to be void. Ib., § 9.

Annexation and Merger of Contiguous Municipalities; Alternate Mode.

Aug. 18,
1907, p.
598, § 10.

1151. Dissolution of annexed municipalities.—The annexed city or town from and after the time of annexation, under the terms hereof, shall be and shall be held to be dissolved, and from and after the time of such dissolution all of the ordinances, resolutions, and by-laws of the annexing city shall apply and be enforceable in the territory which was embraced in the annexed city or town, except in so far as is inconsistent with the terms and provisions of the agreement of annexation.

ib., § 11.

1152. Effect of dissolution upon rights, powers, duties, etc.—The rights, powers, duties, liabilities, and jurisdictions of the annexing city over the territory embraced in the corporate limits of the city annexed, and over the inhabitants thereof, shall attach immediately upon the dissolution of the annexed city as herein provided, except in so far as limited by the terms and provisions of the agreement of annexation.

ib., 12.

1153. Exemption of specific property from taxation provided for.—The agreement of annexation may provide for specific property having a situs thereon embraced in the annexed city or town to be exempt from city taxation or the payment of taxes to the annexing city not exceeding a period of ten years, and may provide a maximum license tax to be annually assessed and collected by the annexing city from each and every person, firm, company, or corporation engaging in or carrying on any business, vocation, occupation, or profession in the territory exempt from taxation.

ib., § 13.

1154. Wards and aldermen of merged municipalities provided for.—The council or governing body of the annexing city shall create new wards (as many as may be deemed to be necessary) regardless of any limitation in the charter of the annexing city on the number of wards, or enlarge wards so as to embrace all territory embraced in the annexed city, and so as to afford opportunity to all persons in the territory embraced in the annexed city to vote at all elections and participate in the government of the annexing city, and each ward in the annexing city shall have the same number of aldermen, but in no event shall there be more than thirty aldermen or representatives in the council or governing body of the city, and the council, or governing body of the city, shall elect aldermen for the wards, embracing all the territory of the annexed city, as in case of a vacancy, the aldermen so elected to the office until the next regular election of the annexing city, at such election and thereafter aldermen for such wards shall be elected as other aldermen are elected in the city, and if the agreement of annexation names the aldermen to be elected to fill the office of aldermen until the next ensuing election, the parties named shall be elected aldermen by the council or governing body of the annexing city. The council or governing body of the annexing city

Absorbed, Merged or Annexed Corporations; Administration of Affairs After Absorption.

shall, by ordinance or resolution, create new wards or change the lines of wards as often as may be necessary covering the territory embraced in the annexed city for the purpose of making equal as near as practicable the voting population in each ward in the annexing city, and the council or governing body of the annexing city shall divide the respective wards in the city into voting precincts, as many as may be necessary, and each elector shall vote in the precinct of his residence, and the boundary of such voting precincts shall be arranged and rearranged from time to time so that, as near as practicable, not exceeding four hundred electors reside in any voting precinct.

1155. Alternate mode of annexation or merger.—The provisions of this article shall in no wise preclude any city or town from being annexed and merged into another city or town in any way that may be provided by law.

Aug. 13,
1907, p.
508, § 14.

ARTICLE 7.

ABSORBED, MERGED OR ANNEXED CORPORATIONS; ADMINISTRATION OF AFFAIRS AFTER ABSORPTION. 1156-1163.

SECTION.

- 1156. Debts, liabilities, or contracts of absorbed municipalities.
- 1157. Property of absorbed municipalities, title and ownership of.
- 1158. Taxes of absorbed municipalities, proceedings for collection.
- 1159. Actions, suits, fines, and forfeitures of absorbed or merged municipality.

SECTION.

- 1160. Books, documents, files, etc., disposed of.
- 1161. Public utilities, water works, gas, electric light plants, etc., provided for.
- 1162. Bonded indebtedness of absorbed municipalities provided for.
- 1163. School property provided for.

1156. Debts, liabilities, or contracts of absorbed municipalities.—When any municipal corporation has been absorbed, or its government extinguished by the alteration or rearrangement of the boundary lines of another city or town, the city or town so altering or rearranging its boundary lines shall assume and pay any and all debts, liabilities, bonded indebtedness, and interest thereon, of every kind and character, when the same shall become due, that may have been lawfully contracted by the city or town so absorbed, or whose government has been extinguished, and said city or town so altering or rearranging its boundary lines shall assume all contracts for any municipal improvements that may not be completed of the city or town so absorbed, or whose government has been extinguished prior to the 13th day of August, 1907.

Aug. 13,
1907, p.
913, § 1.

1157. Property of absorbed municipalities, title and ownership of.—The city or town so altering or rearranging its boun-

ib., § 2.

Absorbed, Merged or Annexed Corporations; Administration of Affairs After Absorption.

dary lines shall become vested with the title and ownership of all property, both real and personal, including taxes, moneys, school buildings, and grounds, parks, fixtures, and furniture of school buildings, city or town halls, equipment and apparatus of fire departments, city or town jails, water, gas, or electric systems, including all mains, or pipes used for conducting the water or gas, or electric lines, wires, poles, conduits, and all apparatus connected with any waterworks, gas, or electric light systems, belonging to the city or town so absorbed, or whose government has been extinguished, subject to the same conditions, and to be held for the same uses and purposes, and subject to the same conditions as theretofore.

Aug. 13,
1907, p.
913, § 3.

1158. Taxes of absorbed municipalities, proceedings for collection.—The city or town so altering or rearranging its boundary lines, shall not stay, arrest, or interfere with any proceedings for the collection or enforcement of any tax, special assessment or special tax, and the same shall proceed and be carried to a finality by the proper officers of the city or towns whose boundary lines shall be so altered or rearranged, and the proceeds thereof shall be paid over to the treasurer of such city or town so altering or rearranging its boundary lines to be used for the purposes for which the tax was levied, or the proceedings instituted.

Ib., § 4.

1159. Actions, suits, fines, and forfeitures of absorbed or merged municipality.—All suits pending in any court on behalf of any city or town so absorbed, or whose government is extinguished, may be prosecuted or defended in the name of the city or town whose boundary lines shall be so altered or rearranged, and all judgments, fines, or decrees, or recoveries obtained for or on behalf of any city or town so absorbed, or whose government has been extinguished, may be collected and enforced with like force and effect as though such absorption has not taken place, in the name of the city or town whose boundary lines have been so altered or arranged.

Ib., § 5.

1160. Books, documents, files, etc., disposed of.—All the public books, papers, and documents of said city or town so absorbed, on file in any office, or with any public officer thereof, shall be transferred to, and filed with, the appropriate officer or department of the city or town whose boundary lines have been altered or rearranged as the city council, or other governing body thereof, may direct. It shall be the duty of all persons having charge of such books, papers, and documents, to deliver the same to, and file the same with, the appropriate officer or department thereof.

Ib., § 6.

1161. Public utilities, waterworks, gas, electric light plants, etc., provided for.—Should the city or town so absorbed, or whose government is extinguished, own any waterworks, gas,

Elections, Municipal.

or electric light systems, the city or town so altering or rearranging its boundary lines, shall take charge of and operate said waterworks, gas, or electric light system on the same terms and conditions, and charge the consumers thereof the same rates or charges as before said absorption by the city or town so altering or rearranging its boundary lines, and said city or town shall have the same use and benefit of said water, gas, or electric light system as that of the city or town so absorbed.

1162. Bonded indebtedness of absorbed municipalities provided for.—Should the city so altering or rearranging its boundary lines absorb or annex any part of another city or town, the city so altering or rearranging its boundary lines shall assume and pay the proportionate share of the bonded indebtedness of the city or town from which said territory is taken, that the cost of the municipal improvements in such territory taken from such city or town, bears to the whole cost of municipal improvements made in the whole of the city or town from which such territory is taken immediately before such annexation; provided, that this shall apply only to that part of bonded indebtedness actually expended for municipal improvements. Aug. 13, 1907, p. 918, § 7.

1163. School property provided for.—Said city shall also pay to the city or town from which territory is taken, the value of any school property or other property that may be in such annexed territory at the time of such annexation. The amount of said bonded indebtedness and the value of said property to be paid by said enlarged city, shall be determined and agreed on by the city council of the enlarged city and by the city council of the city from which such territory is taken, in such a manner as they shall elect; if they cannot agree, then the matter shall be determined by the circuit court of the county in which such enlarged city may be, by petition of either municipality, or of any taxpayer of either municipality.

ARTICLE 8.

ELECTIONS, MUNICIPAL. 1164-1171.

SECTION.

- 1164. Municipal election held under general election laws; officers of.
- 1165. Registration list for election for extension.
- 1166. Poll lists.
- 1167. Canvassing returns.

SECTION.

- 1168. Contest of election.
- 1169. Challenging votes and electors; mode of.
- 1170. Effect of failure to hold election.
- 1171. Election of municipal officers specially provided for.

1164. Municipal election held under general election laws; officers of.—Elections in cities and towns of this state shall be Aug. 13, 1907, p. 790, § 25.

conducted according to the general election laws, except as otherwise provided in this chapter. The council shall appoint three inspectors, two clerks, and one returning officer for each polling place, and may direct one or more polling places to be opened in each ward. It shall be the duty of the mayor and clerk to provide for the opening of said polls and to give at least ten days' notice by publication in a newspaper published in such city or town, if any, or by posting such notice in three public places in the municipality. Such notice shall give the names of the election officers at each polling place, and the location of the polling places. If an inspector is absent at the time of opening the polls, those present may appoint a person to fill the vacancy. If all are absent, any three qualified electors of the municipality and of the ward may act as inspectors and appoint two clerks and a returning officer to fill the vacancy, if any.

Aug. 18,
1907, p.
790, § 26.

1165. Registration list, for election for extension.—The mayor of the city or town shall cause to be made duplicate copies of so much of the registration list of the county in which such city or town, or any part thereof, is located as may embrace the registered and qualified voters who reside within the corporate limits of such city or town; in cities, dividing the same into separate alphabetical lists of the registered voters of each ward. He shall have compared such copies with the original registration lists and correct the same so that they shall be accurate, and shall certify on each that it is a correct list of the registered voters for the town or ward to which it appertains. He shall have full access to all registration lists of the county for this purpose. One of each of said duplicates shall be filed with the clerk of the city or town, where it shall remain as a record of his office, and on or before the day of election, and before the opening of the polls, he shall furnish the inspectors for the respective wards or polling places with a copy of the lists of the registered voters of the ward or town for which such inspectors were appointed.

Ib., § 27.

1166. Poll lists.—For the purpose of such election, the lists furnished to such inspectors by the mayor shall be taken to be correct, but subject, if error is alleged, to be corrected by comparison with the original registration list. Upon the receipt of any vote by the inspectors, they shall forthwith draw a line through the name of the person voting. The said inspectors shall, immediately after the polls are closed, proceed to count the ballots, and certify the result of the election in their respective polling places to the council of the city or town. They shall enclose the ballots cast in their respective wards or polling places with the poll list, together with their certificates of the results, in the box furnished them for that purpose, and,

after carefully sealing the same, deliver said box, with its contents, to the returning officer, and the same shall be immediately delivered by him to the clerk, who shall give to such returning officer his receipt for said box, stating in said receipt the condition of said box when received by him.

1167. Canvassing returns.—Within three days after the delivery of the boxes, as hereinbefore required, the council shall proceed to open the same and canvass the return, and the persons who shall have received the largest number of legal votes for the respective offices to be filled at such election, shall be declared elected to such offices, and a certificate of election shall be given to such persons by the council, or a majority of them, which shall entitle the persons so certified to the possession of their respective offices immediately upon the expiration of the term of their predecessors, as provided by law. In the event of a tie vote between two or more persons in said election, for the same office, the council shall order a new election not later than thirty days thereafter, at which election said parties shall run off the tie vote, and the person receiving the highest number of votes shall be declared elected. In the event that all opposition is withdrawn to a candidate receiving a tie vote, then no second election need be held, and such candidate shall receive a certificate of election.

AUG. 13,
1907. P.
790, § 28.

1168. Contest of election.—The election of any person to a city or town office may be contested upon the same grounds and in the same manner provided for contesting elections for judge of probate, so far as applicable.

ib., § 29.

1169. Challenging votes and electors, mode of.—Any person offering to vote at a municipal election may be challenged by either of the inspectors, or by any qualified elector, and it is the duty of each inspector to challenge any person offering to vote whom he knows or suspects not to be qualified under this chapter as an elector. When any person is challenged, if his ballot is not withdrawn, one of the inspectors must tender him the following oath: "You do solemnly swear that you will fully answer all such questions as may be put to you touching your qualifications as an elector." The inspectors, or one of them, must then examine him as to his qualifications under this chapter. They may also receive proof as to his qualifications other than the oath of the challenged party, and may administer oaths to witnesses whom they may examine, and must admit or reject the ballot of the challenged party as his right may be shown, and if any person refuses to take the above oath, or to answer any questions propounded touching his qualifications as an elector, his vote must be rejected. All rejected ballots shall be sealed up in a separate package and delivered to the council with the returns of election.

ib., § 29.

MUNICIPAL CORPORATIONS.

Officers, Powers, Duties, Removal, Impeachment, Etc.

Aug. 13,
1907, p.
790, § 32.

1170. Effect of failure to hold election.—If the election hereinbefore provided for should not take place on the day appointed, the corporation shall not for that cause be dissolved, but the incumbents shall remain in office until their successors shall be elected and qualified. The council shall fix some day, as early as convenient, on which day said election shall be held, which election shall be conducted in all respects as a regular election, and the persons so elected shall hold their office until the next general election and until their successors are elected and qualified.

Ib., § 33.

1171. Election of municipal officers specially provided for.—Cities and towns may, except as aforesaid, by ordinance, provide for the election at any regular municipal election, or for the appointment, of such officers as are deemed needful or proper for the good government of the city or town, and the due exercise of its corporate powers, fix their terms of office, fix their compensation, and prescribe the duties of such officers, their liabilities and powers, and require them to give bond in such sum and to be conditioned and approved as the council may prescribe.

ARTICLE 9.

OFFICERS, POWERS, DUTIES, REMOVAL, IMPEACHMENT, ETC. 1172-1191.

SECTION.

- 1172. Removal of municipal officers.
- 1173. Impeachment of municipal officers.
- 1174. Impeachment, grounds of trial and proceedings of.
- 1175. Mayor and aldermen accepting employment from public service corporation vacates office.
- 1176. Funds, moneys, taxes; misappropriation of.
- 1177. Witnesses, evidence, etc., in impeachment proceedings.
- 1178. Mayor; powers, duties, salary, etc.
- 1179. Mayor chief executive, general supervision and control.
- 1180. Reports to be made to the mayor.
- 1181. Borrowing money by municipalities.

SECTION.

- 1182. Loans confirmed.
- 1183. Contracts of municipalities; how executed.
- 1184. Deeds, conveyances, bonds, obligations, etc., of municipalities.
- 1185. Resolutions and ordinances transmitted to and approved by mayor.
- 1186. Veto and disapproval of ordinances and resolutions by mayor.
- 1187. Vetoed or approved in part.
- 1188. President pro tempore of council; powers and duties of.
- 1189. Official bonds of municipal officers; requirements.
- 1190. Officers must pay over money.
- 1191. Claims against municipalities must be presented.

Aug. 13,
1907, p.
790, § 34.

1172. Removal of municipal officers.—Any person appointed to office in any city or town may, for cause, after a hearing, be removed by the officer making the appointment. The city council may remove, by a two-thirds vote of all those elected to the council, any person for incompetency, malfeasance, misfeasance, or nonfeasance in office and for conduct detrimental

Officers, Powers, Duties, Removal, Impeachment, Etc.

to good order or discipline, including habitual neglect of duty, in the several departments.

1173. Impeachment of municipal officers.—The council shall have full power to try all impeachments of the mayor, clerk, treasurer, and any member of the council, or any officers elected by a vote of the people, and when sitting for that purpose, as a court of impeachment, the members thereof shall be on oath or affirmation. Aug. 18,
1907, p.
790, § 85.

1174. Impeachment; grounds of trial and proceedings of.—Ib., § 86.
The council may impeach or remove any of the officers named in the preceding section, including the president of the council, for corruption in office, habitual drunkenness, incompetency, official misconduct, or any offense involving moral turpitude, or for habitual neglect of duty, by a vote of two-thirds of all the members elected to the council, except the mayor, as to whom a three-fourths vote shall be requisite, the vote in all cases being taken by yeas and nays, and spread upon the minutes, five days' notice and an opportunity of being heard in his own defense having been previously given the accused, with a copy of the charges against him. Upon the preferring of impeachment charges against any member of the council or the mayor, the accused shall be placed on trial, which trial shall begin within thirty days from the notification of said charges as to the party impeached. Judgment in cases of impeachment shall not extend further than removal from office and disqualification from holding any office under the city during the term for which such officer was elected, but the party convicted shall be liable to indictment, trial, and imprisonment in the state courts notwithstanding, if it be an offense punishable by the laws of the state. Upon the trial of all impeachments, the accused shall have the right to appear in person or by counsel and to testify in his own behalf, and the municipality shall be represented in such cases by any person that may, by the council, be authorized.

1175. Mayor and alderman accepting employment from public-service corporation vacates office.—No mayor or alderman of any municipality shall accept employment, after his election, and during his term of office, from any public-service company or corporation operating under any franchise granted by the municipality, and any person accepting such employment after his election, thereby vacates his office. Ib., § 201.

1176. Funds, moneys, taxes; misappropriation of.—Any member of the council who shall vote in favor of, or any mayor who shall approve any resolution or ordinance to apply the funds, or any part thereof, derived from the special tax provided for in article 28 of this chapter, to any other purpose than to the payment of such interest and principal of such Ib., § 108.

bonds, may be impeached in the manner herein provided, and shall be guilty of a misdemeanor, and upon conviction, shall be imprisoned for not less than thirty days and for not more than six months, and may be fined in a sum of not less than one hundred dollars nor more than five hundred dollars.

Aug. 13,
1907, p
790, § 37.

1177. Witnesses, evidence, etc., in impeachment proceedings.—The council, or a committee thereof duly authorized by resolution, may summon witnesses and compel their attendance and compel witnesses to testify and produce books and papers, and may punish them, by imprisonment not exceeding ten days, for failure to attend or refusal to testify or produce books or papers. The presiding officer of the council, or of the committee, may administer oaths to witnesses. During a session of the council, or of a committee, any person who is guilty of disorderly or contemptuous behavior in the presence of the council, or the committee, may be punished by the council, or committee, by arrest and imprisonment not exceeding twenty-four hours. A committee may require any officer of the police force or any patrolman to act as secretary of such committee.

Ib., § 38.

1178. Mayor; powers, duties, salary, etc.—The mayor shall have powers and perform duties as follows: He shall keep an office in the city or town, and shall receive such salary as the council may prescribe, not exceeding the following amounts: In cities having more than twenty-five thousand population, not exceeding five thousand dollars and not less than two thousand five hundred dollars a year; in cities having six thousand and up to twenty-five thousand population, not exceeding twenty-five hundred dollars nor less than five hundred dollars a year; in cities having less than six thousand population, not exceeding one thousand dollars nor less than four hundred dollars a year; in towns, not exceeding six hundred dollars nor less than fifty dollars a year.

Ib., § 39.

1179. Mayor, chief executive; general supervision and control.—The mayor shall be the chief executive officer, and shall have general supervision and control of all other officers and the affairs of the city or town, except as herein otherwise provided; he shall have the power to appoint all officers, whose appointment is not otherwise provided for by law. He may remove any officer for good cause, except those elected by the people, and fill the vacancy caused thereby, permanently, if the appointment of such officer is made by the mayor; and temporarily, if such officer was elected by the council, or appointed with its consent, in either of which last two cases he must report such removal and his reasons therefor to the council at its next regular meeting, when, if the council shall sustain the act of removal by the mayor, by a majority vote of those

Officers, Powers, Duties, Removal, Impeachment, Etc.

elected to the council, the vacancy shall be filled as herein provided.

1180. Reports to be made to the mayor.—The mayor shall require reports to be made to him by any officer of the city or town at such times as he may direct, or as may be prescribed by the council, and shall, at least once in every six months, make a statement to the council in writing of the financial condition of the town or city, showing particularly all temporary floating indebtedness and for what created, and the steps he proposes to take for the protection of the credit of the city or town.

Aug. 13,
1907, p.
790, § 40.

1181. Borrowing money by municipalities.—Cities and towns shall have the right to borrow money to the full extent authorized by the constitution, and in case of loans for temporary use, the same shall be repaid within eight months from the time of borrowing, and shall not bear exceeding the legal rate of interest, and no obligation of the municipality for money borrowed shall be issued unless signed by the mayor and attested by the clerk, with the seal of the municipality impressed thereon and a record kept thereof. Bonds authorized to be issued by cities and towns of the state by act of the legislature before the adoption of the constitution, or by-laws adopted since the adoption of said constitution, may be issued by such municipality the same, after becoming reorganized under this chapter, as before.

ib., § 41.

1182. Loans confirmed.—All loans of money, evidenced by notes or bonds and secured by mortgage, or either, out of any funds by any city or town prior to August 9, 1907, are ratified, confirmed, and made valid as though heretofore expressly authorized by law.

Aug. 9,
1907, p.
794, § 1.

1183. Contracts of municipalities; how executed.—Contracts entered into by a municipality shall be in writing, signed and executed in the name of the city or town, by the officers authorized to make the same, and by the party contracting. In cases not otherwise directed by law or ordinance, such contracts shall be entered into and executed by the mayor in the name of the city or town, and all obligations for the payment of money by the municipality, except for bonds and interest coupons, shall be attested by the clerk. This section shall not be construed to cover purchases for the ordinary needs of the municipality.

Aug. 12,
1907, p.
790, § 42.

1184. Deeds, conveyances, bonds, obligations, etc., of municipalities.—The mayor shall see that all contracts with the town or city are faithfully kept or performed. He shall execute all deeds and contracts, and bonds required in judicial proceedings for and on behalf of the city or town, and no sure-

ib., § 43.

ties shall be required on such bond. He shall perform such other executive duties, in addition to those herein prescribed, as may be required of him by the council.

Aug. 18,
1907, p.
790, § 48.

1185. Resolutions and ordinances transmitted to and approved by mayor.—In cities having a population of six thousand or more, all resolutions or ordinances intended to be of a permanent operation, after having been passed by the council, shall, by the clerk, be transmitted, within forty-eight hours after their passage, to the mayor or acting mayor, for his consideration, who, if he shall approve thereof, shall sign and return the same to the clerk, who shall publish them, and such ordinances and resolutions shall thereupon have the force of law; provided, the council may provide that they shall be effective from approval. An ordinance or resolution may be recalled from the mayor at any time before it has become a law, or has been acted on by him, by a resolution adopted by a majority of the members elected to the council, in regular or special session.

Ib., § 44.

1186. Veto and disapproval of ordinances and resolutions by mayor.—If the mayor shall disapprove of any ordinance or resolution transmitted to him as aforesaid, he shall, within ten days of the time of its passage by the council, return the same to the clerk with his objections in writing, and the clerk shall make report thereof to the next regular meeting of the city council, and if two-thirds of the members elected to the said council shall adhere to said ordinance or resolution, notwithstanding said objections, said vote being taken by yeas and nays and spread upon the minutes, then, and not otherwise, said ordinance or resolution shall, after publication thereof, have the force of law, unless by its terms it was to take effect on its approval, in which event it shall take effect upon its passage over such veto. The failure of the mayor to return to the city clerk an ordinance or resolution with his veto within ten days after its passage by the council, shall operate and have the same effect as an approval of the same, and the city clerk shall publish the same as is herein provided for the publication of laws and ordinances of said city.

Ib., § 45.

1187. Vetoed or approved in part.—Every ordinance and resolution fixing the salaries of employes and officers of said city shall be submitted to the mayor as ordinances are above provided to be submitted, and may be approved in part and vetoed as to specific items, to be mentioned by the mayor in his veto message; in which case there shall first be submitted to the council at its next regular meeting, the question, "Shall the ordinance pass, the veto of the mayor notwithstanding," and in the event that two-thirds of the members elected to the council do not vote for the passage of the ordinance, the veto

notwithstanding, there shall then be submitted the question, "Shall the ordinance stand as approved by the mayor?" and if a majority of those elected to the council vote in the affirmative, the law as amended and approved by the mayor shall have the force and effect as law as in other cases, otherwise such salary ordinance shall be defeated.

1188. President pro tempore of council; powers and duties of.—In case of the absence of the mayor from a city of six thousand or more inhabitants, or his inability to serve on account of sickness or any other good reason, the president of the council, or the president pro tempore of the council, in case of absence or disability of the president of the council, shall act as mayor pro tempore, with the power and authority of the mayor during such time. In the event of a failure or refusal of the president of the council, or the president pro tempore of the council, to act, the council may appoint one of its members to act as mayor pro tempore with like effect, which appointment shall be entered in the minutes of the council. In the event of a vacancy, from any cause, in the office of mayor, the president of the council shall succeed to the office of mayor for the unexpired term; in the event of a vacancy in the office of president of the council, the president pro tempore shall, in like manner, be president of the council for the unexpired term; in the event of a vacancy in the office of the president pro tempore, the office shall be filled from the membership of the council. In cities of less than six thousand inhabitants, and in towns, in case of absence or disability of the mayor, the functions of the office shall be exercised by the chairman pro tempore of the council, and during his absence or disability, by such person as the council may appoint from its membership, which appointment must be entered upon the minutes of the council.

Aug. 13,
1907, p.
790, § 46.

1189. Official bonds of municipal officers; requirements.—All officers or employes handling money or exercising authority over property of municipalities shall, before entering upon the discharge of their duties, give bond, with surety to be approved by the mayor, in such penalty as the council may prescribe, conditioned for the faithful discharge of the duties of his office and faithfully to account for all moneys received.

Ib., § 47.

1190. Officers must pay over money.—Officers of any municipality collecting or receiving moneys of the municipality shall pay such moneys over to the city or town treasurer instanter, daily balances, in all cases, being required.

Ib., § 48.

1191. Claims against municipalities must be presented.—All claims against the municipality (except bonds and interest coupons and claims for damages) shall be presented to the clerk for payment within two years from the accrual of said

Ib., § 49.

MUNICIPAL CORPORATIONS.

Council; Powers and Duties of.

claim, or shall be barred; claims for damages growing out of torts shall be presented within six months from the accrual thereof or shall be barred.

ARTICLE 10.

COUNCIL; POWERS AND DUTIES OF. 1192-1198.

SECTION.

1192. Powers of municipalities.

1193. Councilmen shall not hold other office or be interested in municipal contracts.

1194. Aldermen not interested in municipal contracts or business thereof.

SECTION.

1195. Contracts awarded to lowest bidder.

1196. Appropriations annually made by council.

1197. Councilmen shall not vote in certain cases.

1198. Meetings, regular and called by council.

Aug. 18,
1907, p.
790, § 76.

1192. Powers of municipalities.—All legislative powers and other powers granted to cities and towns shall be exercised by the council, except those powers conferred on some officers by law or ordinance. They shall perform the duties required in this chapter, including the following:

(1) The members of such council shall, on the first Monday in October, after their election, assemble and organize the council.

(2) In all towns or cities, a majority of the whole number of members to which such corporation is entitled, including the mayor in towns and cities of less than six thousand population, shall be necessary to constitute a quorum.

(3) They shall determine the time and place of holding their meetings, which at all times shall be open to the public, and in towns and cities of less than six thousand population, in the absence of the mayor, shall appoint a temporary chairman, which appointment shall be entered of record. In cities of more than six thousand population, they shall elect viva voce a president pro tempore.

(4) They shall determine the rules of their own proceedings and keep a journal thereof, which shall be open to the inspection and examination of all citizens, and shall have the force and effect of a record, and a copy thereof, certified by the clerk, shall be prima facie evidence in any court or elsewhere.

(5) They may compel the attendance of absent members in such manner and under such penalties as they may prescribe.

(6) All cities and towns shall have a seal, in the center of which shall be the words, "City Seal," or "Town Seal," as the case may be, and around the margin the name of the city or town, which shall be affixed to all transcripts, orders, or certificates which it may be necessary or proper to authenticate.

(7) All elections of officers shall be made viva voce, and a concurrence of a majority of the whole number of elected members to the council shall be required. On the vote resulting in an election or appointment the name of each member and for whom he voted shall be recorded.

(8) They shall fix, by ordinance, the terms of service, not to exceed the term of the mayor, of all the officers appointed or elected, whose terms are not prescribed by law.

(9) They shall prescribe by an ordinance the powers to be exercised and the duties to be performed by the officers appointed, or elected, so far as such duties and powers are not prescribed by law.

(10) Except as otherwise provided, they shall have power to establish a police force and to organize the same under the general supervision of the chief of police, and to provide one or more station houses, and to require all things necessary for the maintenance of an efficient police department.

(11) Except as otherwise provided herein, they shall have the management and control of the finances and all of the property, real and personal, belonging to the city or town.

1193. Councilmen shall not hold other office, or be interested in municipal contracts.—No member of any city council shall, during the time for which he has been elected, be appointed to any municipal office which shall be created or the emoluments of which shall be increased during the term for which he shall have been elected. Nor shall he be interested, directly or indirectly, in any contract or job for work or material, or the profits thereof, or services to be performed for the corporation, except as herein provided. Aug. 18,
1907, p.
790, § 76.

1194. Aldermen not interested in municipal contracts or business thereof.—No alderman or officer or employe of the municipality shall be directly or indirectly interested in any work, business, or contract the expense, price, or consideration of which is paid from the treasury, nor shall any member of the council or officer of the municipality be surety for any person having a contract, work, or business with such municipality, for the performance of which a surety may be required. Ib.

1195. Contracts awarded to lowest bidder.—The award of each contract for which bids have been submitted shall be made to the lowest responsible bidder who may comply with such reasonable regulations as may be prescribed before the bids are called for. Ib.

1196. Appropriations annually made by council.—In all cities, at or before the beginning of each fiscal year, the council shall appropriate the sums necessary for the expenditures Ib., § 77.

MUNICIPAL CORPORATIONS.

Clerks of Municipalities; Powers and Duties of.

of the several city departments for such fiscal year, not exceeding in the aggregate within ten per centum of its estimated receipts, and such city council shall not appropriate in the aggregate an amount in excess of its annually legally authorized revenue. But nothing herein shall prevent such city from anticipating their revenues for the year for which such appropriation was made, or for contracting for temporary loans as herein provided, or from bonding or refunding their outstanding indebtedness.

Aug. 13,
1907, p.
790, § 78.

1197. Councilmen shall not vote in certain cases.—No councilman shall be entitled to vote on any question in which he, or his employer, or employe, has a special financial interest at the time of voting, or was so interested at the time of his election.

ib., § 79.

1198. Meetings; regular and called by council.—There shall be at least two regular meetings of the council in each month, and the presiding officer shall call special meetings whenever in his opinion the public interest may require it, and whenever two aldermen or the mayor request him in writing to call such meeting; upon the failure or refusal of the presiding officer to call such meeting, when requested, the two aldermen or the mayor making the request shall have the right to call such meetings.

ARTICLE 11.

CLERKS OF MUNICIPALITIES; POWERS AND DUTIES OF. 1199-1203.

SECTION.

1199. Clerk must attend meetings.
1200. Clerk keeps record of claims and demands, and issues warrants therefor.

SECTION.

1201. Clerk keeps books and accounts of municipalities.
1202. Clerk issues licenses.
1203. Clerk; additional duties.

Aug. 13,
1907, p.
790, § 50.

1199. Clerk must attend meetings.—The clerk of all cities and towns shall attend the meetings of the council and keep a record of its proceedings. He shall have the custody of the rules, ordinances, and resolutions of the council, and shall keep a record of them when adopted by the council. He shall also have the custody of the city or town seal. During the absence of the clerk, the council may appoint some person to perform his duties.

ib., § 51.

1200. Clerk keeps record of claims and demands, and issues warrants therefor.—The clerk shall submit all claims, requisitions, and demands against the city or town to the council at its next regular meeting for its approval, unless already provided for by ordinance or resolution, and upon its being approved by the council and the passage of ordinances carrying it into effect when necessary, said clerk shall issue war-

Treasurer, Powers, Rights and Duties of.

rant on the city or town treasurer for the amount of such claim, requisition, or demand. Before issuing any warrant upon the treasurer, the clerk shall audit the claim, certify to its correctness, and keep a record thereof, which record shall also show to what department or departments it is chargeable.

Aug. 13,
1907, p.
790, § 52.

1201. Clerk keeps books and accounts of municipalities.—The clerk shall keep a convenient set of books in which there shall be kept a separate account with each collecting officer of the city or town. He shall keep a separate account with each department for which a separate appropriation shall have been made, crediting the amount of the appropriation and charging warrants drawn against the same. He shall keep such other accounts as may be necessary to show the financial condition of the municipality, and of each department thereof, at all times. He shall not allow the amount appropriated for any item of expense to be drawn on for any other purpose. He shall not allow any warrant to be drawn unless sufficient funds actually be in the treasury to the credit of the fund upon which such warrant is drawn unless specifically authorized by an ordinance.

1202. Clerk issues licenses.—He shall issue all licenses ^{1b.} unless otherwise provided by ordinance, receiving the money therefor, and pay over the same instanter to the city treasurer. Any part of the duties of the clerk may be devolved upon the auditor by ordinance.

1203. Clerk; additional duties.—The clerk, in addition to ^{1b.} these enumerated duties, shall perform any and all duties that may be required of him by ordinance or resolution. He shall give bond with sureties, to be approved by the mayor, in such sum as the council may prescribe.

ARTICLE 12.

TREASURER, POWERS, RIGHTS AND DUTIES OF. 1204-1207.

SECTION.

1204. Treasurer, bond and duties of.
1205. Interest on warrants.

SECTION.

1206. Moneys or funds of municipality, deposits of.
1207. Moneys of municipality paid to treasurer.

1204. Treasurer; bond and duties of.—The treasurer shall give bond in such sum as the council may prescribe, for the faithful performance of his duties and the safe custody of the funds. He shall be the custodian of the funds of the municipality, keeping an accurate record of the funds of the several departments, and shall keep books showing accurately the financial condition of the city. He shall pay out money only

Aug. 13,
1907, p.
790, § 52.

MUNICIPAL CORPORATIONS.

Treasurer, Powers, Rights and Duties of.

upon warrants drawn by the officers authorized herein to draw warrants upon the treasurer, and when paid shall keep safely the warrant so drawn. Such warrant shall be drawn by the clerk, approved by the mayor, except as herein otherwise provided, on the treasurer, the warrant showing to what department the same is to be charged. No warrant, however, to be drawn except by authority of law or ordinance. No expenditure shall be allowed unless the same shall have been authorized by ordinance, or by the mayor, and is carefully itemized and shall have been examined, audited, and approved. He shall keep a record of all warrants presented for payment which are unpaid for want of funds, and shall pay them when funds are available in the order of their presentation. He shall make report once a month, or oftener if required by the council, of the financial condition of the account of each department authorized to draw on the treasurer, and shall make a quarterly statement, under oath, of the financial condition of the city or town to the council.

Aug. 13,
1907, p.
790, § 54.

1205. Interest on warrants.—If no interest is stipulated to be paid on warrants drawn upon the treasurer and not paid for want of funds, then the legal rate shall be allowed from the time of the presentation, which time shall be endorsed by the treasurer on the warrant with his signature, but no interest shall be paid on such warrants after notice has been posted in the office of the treasurer, or in the office of the mayor, that such warrant will be paid on demand. The treasurer shall sign all bonds issued as a liability of the city or town. He shall perform such other duties as may be required of him by the council or by law.

ib., § 55.

1206. Moneys or funds of municipality; deposits of.—The council may direct, by ordinance or resolution, the place where the treasurer shall deposit public money, and may require interest to be paid thereon and security to be given by the depository; provided, that as to deposits made under authority of an ordinance of the council, neither the treasurer nor his bondsmen, if the treasurer has exercised due care, shall be further liable for any loss occasioned thereby.

ib., § 56.

1207. Moneys of municipality paid to treasurer.—The council shall provide laws that all moneys due the municipality or any department thereof shall be paid directly to the treasurer, and no moneys shall be collected by departments or officials therein as a part of the duties of that department, except as herein provided.

ARTICLE 13.

HEALTH LAWS AND REGULATIONS. 1208-1212.

SECTION.

1208. Health laws, officers, etc.
 1209. Health officers.
 1210. Health officers, election of.

SECTION.

1211. Assistant health officer.
 1212. Health officers, salary of.

1208. Health laws, officers, etc.—The boards of health of the several counties of the state shall supervise the administration of the health laws of the various cities and towns, and to that end they shall elect a city health officer for each city of their respective counties having a population of six thousand or more, the election of such health officer to be subject to the approval of the city council for which he is elected. Such city health officer shall be a qualified physician of good standing and a resident of the city or town for which he is so elected, and he shall be responsible for the proper execution of all laws, ordinances, and regulations of the said city, pertaining to the health and sanitation of the same. Aug. 13,
1907, p.
790, § 161.

1209. Health officers.—In cities and towns having a population of less than six thousand, a city health officer, possessing the same qualifications and vested with the same authority and power as city health officers in cities of six thousand and more population, may be appointed by the mayor of such city or town, and his appointment approved by the city or town council, or he may be elected by the county board of health, as may be provided by ordinance adopted by such city or town, in which last mentioned case his election must also be approved by the city or town council. Ib., § 162.

1210. Health officers; election of.—Said city health officer shall be elected or appointed as soon as practicable after the municipal election held in the year 1908, and every two years thereafter, and such election or appointment shall be acted on by the city or town council at the first regular meeting after his election or appointment, or as soon thereafter as is possible. Should the selection of the city health officer not meet with the approval of the council and be rejected by it, then such county board of health or mayor, as the case may be, shall immediately select, in the manner herein provided for, some other person as city health officer and send his name into the town or city council without delay, and such selection shall be acted on by the said council at the next regular meeting thereafter, and so on until a city health officer is selected and confirmed. The city health officer so selected and confirmed shall hold office until the next regular municipal election thereafter and until his successor is elected or appointed. Ib., § 163.

MUNICIPAL CORPORATIONS.
Recorders and Recorder's Courts.

and qualified, and he shall perform all of the duties required of him by law and shall have all of the powers and authority granted to him by the city ordinances or state laws.

Aug. 13,
1907, p.
790, §164.

1211. Assistant health officer.—The city health officer may, subject to the approval of the city or town council, with its consent, appoint an assistant health officer or officers, and may, on like approval, remove said assistants at pleasure. Such assistant health officers shall perform such duties and have such powers and authority as may be conferred on them by ordinance.

Ib.

1212. Health officers; salary, of.—The salaries of the city health officers and their assistants shall be fixed by ordinance of the council, at the first regular meeting and prior to the selection of such health officer and assistants, and such salaries shall not be increased or diminished during the term for which said health officers or assistants are elected or appointed.

ARTICLE 14.

RECORDERS AND RECORDER'S COURTS. 1213-1229.

SECTION.

- 1213. Recorder defined.
- 1214. Recorders, number of, election of, jurisdiction of.
- 1215. Recorders, jurisdiction, powers, and duties of.
- 1216. Recorder, power to fine, punish, imprison, and sentence to hard labor.
- 1217. Appeals from recorders' court.
- 1218. Judgments on appeals from recorders' court; proceedings thereon.
- 1219. Prison dues, convict delivered to sheriff.
- 1220. Appeal to supreme court; books, ordinances, etc., as evidence.

SECTION.

- 1221. Recorder concurrent jurisdiction with county court; judgment of one bar to prosecution.
- 1222. Fines and punishments same as in state courts.
- 1223. Preliminary proceedings before recorder.
- 1224. Recorder, powers of, additional.
- 1225. Sheriffs shall obey officer and execute process.
- 1226. Mayor may remit fines and commute sentences.
- 1227. Tax assessor and collector, chiefs of police and fire departments provided for.
- 1228. Mayor ex officio recorder.
- 1229. Accountant, expert, employed, duties of.

Aug. 13,
1907, p.
790, § 59.

1213. Recorder defined.—Recorder as herein used shall, when used in reference to jurisdiction and officers holding court, mean any person authorized herein to hold municipal court.

Ib.

1214. Recorders, number of, election of, jurisdiction of.—In cities covering a large territory, if necessary, the councils may divide the police jurisdiction of such city into districts, and may elect a sufficient number of recorders to hold court in such districts, who shall have, each and all, within such

districts, the power and authority herein granted to recorders. Such recorder shall try all cases within such districts except violations of the revenue laws, which cases shall only be tried by the recorder of the district in which the office of the mayor and council are situated. In the absence of any of such recorders, any councilman may preside over such court and have the power and authority herein granted to recorders.

1215. Recorders; jurisdiction, powers, and duties of.—It shall be the duty of the recorder to keep an office in the city, and to hear and determine all cases for the breach of the ordinances and by-laws of the city that may be brought before him, and it shall be his duty to make report, at least once a month, of all fines, penalties, and forfeitures imposed by him, or by any councilman in his stead. Such recorder is especially vested with and may exercise in the city, and within the police jurisdiction thereof, full jurisdiction in criminal and quasi criminal matters, and may impose the penalties prescribed by ordinance for the violation of ordinances and by-laws of the city, and shall have power of an ex-officio justice of the peace, except in civil matters; provided, that in the absence from the city, death, disability, or inability of the recorder, any councilman may act as such recorder with his full power and authority. Aug. 13,
1907, p.
790, § 60.

1216. Recorder; power to fine, punish, imprison, and sentence to hard labor.—The recorder trying any person for violation of any by-law or ordinance of the city shall, upon conviction of such person, have the power to fine and imprison him, and to sentence him to hard labor upon the streets or public works, or in the workhouse or house of correction of the city; and, in the event the fine and costs are not presently paid, to require the offender or person thus in default to work out the fine and costs under the direction of the city authorities, allowing not exceeding one dollar for each day's service; provided, that no fine shall exceed one hundred dollars, and no sentence to imprisonment or hard labor shall exceed six months, and that no female shall be required to work on the streets of the city, but the council may provide by ordinance for the hiring out, within the county, any male or female convicted of a violation of any city ordinance, for the payment of fine and costs, or during the time the prisoner was sentenced to hard labor or imprisonment. All contracts of hiring shall be approved by the mayor, and recorded in the office of the judge of probate of the county. Ib., § 61.

1217. Appeals from recorder's court.—In any case involving the validity of an ordinance of the city, tried before the recorder, the council may take an appeal, without bond, to the circuit court or court of like jurisdiction; and in any case Ib., § 62.

MUNICIPAL CORPORATIONS.
Recorders and Recorder's Courts.

the defendant may take an appeal to such court by giving bond with good and sufficient sureties, payable to the city, to be approved by the recorder or officer trying the case, conditioned to be void if the defendant appears from term to term of said court, until discharged by law, to answer said charge, but unless such bond be given within five days from the date of the judgment no appeal shall be allowed from such judgment. An appeal bond for more than three hundred dollars shall in no case be required, but when sitting as a committing magistrate any reasonable bond may be required.

The case appealed shall be tried de novo in such court, and the judge or jury trying such cause is authorized to impose upon the person convicted such punishment by fine or by imprisonment in the city jail, or other place of confinement, or hard labor for the city, or by fine and imprisonment, as the court or jury may deem proper and is authorized by law or ordinance for such offenses.

Aug. 13,
1907, p.
790, § 64.

1218. Judgments on appeals from recorder's court; proceedings thereon.—If such defendant fails to appear in the court to which an appeal was taken, when the case is called for trial, unless good cause is shown to the court for his absence or default, the court shall enter up a judgment of forfeiture on said bond against the defendant and his sureties, as is authorized or provided by law in criminal cases; and in case the defendant appears and judgment is rendered against him, unless the fine and costs are presently paid or judgment confessed therefor in favor of the city by the defendant, with sureties in the same manner as provided for in convictions for violating the state laws, the said court must remand the defendant to the city authorities for punishment, and the clerk of such court must in writing notify the mayor or chief of police of the judgment of the court trying such case, and said notice shall accompany the defendant when he is delivered to the city authorities for punishment, but if the judgment of the circuit court is paid, the clerk may receive such fine and costs and the defendant may be discharged, and such clerk must, under a penalty of five per centum per month thereon for a failure to do so, pay said money to the treasurer of the city within thirty days after he receives it. His bondsmen shall also be liable for said penalty, and the amount thereof with the money collected may be recovered by motion after three days' notice.

Id., § 65.

1219. Prison dues; convict delivered to sheriff.—After the prisoner has worked out the said fine and costs due the city, or served the sentence of the court, he shall, unless said costs are paid, be delivered to the sheriff of the county to work out the costs incurred in said circuit court or other court, for

which sentence shall be passed on him at the time of rendering judgment against him in the same manner and to the same extent as if said costs had been incurred in a case for violation of state law.

1220. Appeal to supreme court; books and ordinances as evidence.—From the judgment of said circuit court or other court of like jurisdiction the city, in a case involving the validity of an ordinance, or the defendant in any case, may appeal to the supreme court of the state. On the trial of any cause in any court, any code or book containing the ordinances or resolutions of the city or town, and purporting on the face thereof to be written or printed by the authority of the council, and any ordinance or resolution certified by the clerk to be a law, shall be received as evidence of the contents thereof without further proof.

AUG. 13,
1907, P.
790, § 68.

1221. Recorder; concurrent jurisdiction with county court; judgment of one, bar to prosecution.—The recorder shall have original and concurrent jurisdiction with the county court or court of like jurisdiction, of all misdemeanors committed within the city or town, or within the police jurisdiction thereof, but no fine or judgment of acquittal or conviction rendered by said recorder shall be a bar to a prosecution by the state in any case where the facts or offense charged constitute a felony under the laws of the State of Alabama. When a person has been tried and convicted of any offense which is a misdemeanor under the state laws, by a municipal officer empowered by law to try such offenses, he shall be punished as provided by law.

IB., § 67.

1222. Fines and punishments same as in state courts.—The limits of the fine shall be the same as the limits imposed by the state for the same offense, and whenever the state law prescribes for such offense one or more of said punishments conjunctively the punishment by the municipality shall be as prescribed by law. When any person has been tried by any municipal court for a misdemeanor or for violation of an ordinance committed within the police jurisdiction of the municipality, the judgment shall bar a prosecution for the same, or substantially the same, offense in the state courts, and when a person has been tried for a misdemeanor in the state courts the judgment shall bar a prosecution for the same, or substantially the same, offense in the municipal court.

IB., § 68.

1223. Preliminary proceedings before recorder.—In all cases where persons are brought before the recorder, if on investigation of the charge there is a reasonable cause to believe that a felony has been committed and that the defendant is guilty thereof, such officer only has authority to bind such defendant over to appear before the criminal or circuit court,

IB.

or other court of like jurisdiction of the county, and to proceed in all respects in such cases as justices of the peace are required by law to proceed.

Aug. 13,
1907, p.
790, § 69.

1224. Recorder; powers of, additional.—The recorder shall have power to administer oaths, to compel the attendance of witnesses, and to compel the production of papers and books, and shall have power to punish by fine not exceeding ten dollars and imprisonment not exceeding twenty-four hours any person in contempt of court. Such recorder shall have power coextensive with county courts in such jurisdiction to issue writs and all other process, and to approve and declare bonds forfeited.

Ib., § 70.

1225. Sheriffs shall obey officer and execute process.—The sheriff of a county in which a city or town, or any part thereof, is located, shall obey the recorder having legal authority and shall faithfully execute the warrants and processes committed to him for service according to their mandates, and it is made the duty of the jailor of such county to receive all persons committed by said recorder.

Ib., § 71.

1226. Mayor may remit fines and commute sentences.—The mayor shall have power to remit fines and commute sentences imposed by the recorder, and he shall report his action to the council at the next regular session, with his reasons therefor in writing.

Ib., § 72.

1227. Tax assessor and collector, chiefs of police and fire department provided for.—The council may provide for a tax assessor, tax collector, chief of police, chief of the fire department, and shall specifically prescribe their duties.

The council shall designate the persons who shall administer oaths and issue warrants of arrest for violations of law and the ordinances of a city or town; and the persons authorized to approve appearance bonds of persons arrested.

Ib., § 73.

1228. Mayor ex-officio recorder.—In cities and towns having no recorder, the mayor shall be ex-officio recorder, and his compensation as mayor shall also include his compensation for holding such office. The council may determine, by ordinance, the costs of the court, in no case to exceed costs allowed state offices for similar services, and such costs shall be paid into the city treasury.

Ib., § 74.

1229. Accountant, expert, employed; duties of.—In cities and towns the mayor shall, at least once a year, appoint an expert accountant who shall make an examination in detail of all books and accounts of the city officials to cover the period since the preceding examination, and make a full report thereof in writing, under oath, to be submitted to the council at its first meeting after the completion of such report, and the same shall be spread upon the minutes of the council,

Police Jurisdiction, Territorial; Police Commission.

provided that the same person shall not be appointed or authorized to make such examinations twice in succession. For his services said accountant shall be paid such sum as may be agreed upon.

ARTICLE 15.

POLICE JURISDICTION, TERRITORIAL. 1230.

1230. Police jurisdiction; territorial.—The police jurisdiction in cities having six thousand or more inhabitants shall cover all adjoining territory within three miles of the corporate limits, and in cities having less than six thousand inhabitants, and in towns, such police jurisdiction shall extend also to the adjoining territory within a mile and a half of the corporate limits of such city or town.

Aug. 18,
1907, p.
790, §§ 57
and 58.

Ordinances of a city or town enforcing police or sanitary regulations and prescribing fines and penalties for violations thereof, shall have force and effect in the limits of the city or town and in the police jurisdiction thereof, and on any property or rights of way belonging to the city or town.

ARTICLE 16.

POLICE COMMISSION. 1231, 1232.

SECTION.

1231. Police commission.

SECTION.

1232. Police commission, duties of.

1231. Police commission.—In all cities of twenty-five thousand or more population, there is established a commission to be called "The Police Commission" and to be composed of three commissioners, the mayor of the city to be a commissioner and chairman of the board, and two other commissioners to be elected by the people at the next regular election held for the election of city officers; there shall be elected two commissioners, one for the term of two years and one for the term of four years, and until their successors are elected and qualified, and on the expiration of these terms their successors shall be elected for the term of four years. No person shall be eligible to hold the office of police commissioner except a qualified elector of the State of Alabama, over twenty-five years of age, and a resident of the city at the time of his election and during his term of office. Nor shall any officer or employe of the municipality or of the state or county be eligible to hold said office. Before entering upon the discharge of the duties of the office, every commissioner shall take the oath of office prescribed by the constitution and laws of Alabama, and may be removed from office for the same causes and in the same manner as justices of the peace are now removed for misconduct.

Aug. 18,
1907, p.
790, § 179.

The police commission shall have exclusive power and authority to appoint and qualify all of the policemen and police officers of the city, and supervise and control them in the execution of the laws, and shall have power to suspend or remove any police officer or policeman for any neglect of duty or failure to execute any process from any court, or to arrest any person found violating any law of the state, or of the municipality, or who commits an act involving moral turpitude, or is given to habitual use of intoxicating liquors, or found under the influence of intoxicants of any kind while on duty.

Aug. 12,
1907, p.
790, § 173.

1232. Police commission; duties of.—“The Police Commission” shall keep a record of their proceedings, which may be kept by one of their number or by a secretary elected by them, and in case they elect a secretary they shall have the power to fix his compensation and his term of service, and remove him at will. The record of minutes of their proceedings shall be open to the inspection of the public.

“The Police Commission” shall prescribe rules and regulations for the government of the policemen and officers, and for preferring charges against any police officer or policeman and for the trial of such charges, and shall have power to summon witnesses to attend before them on any hearing, and shall have power to punish witnesses or any other person who commits any contempt in their hearing or presence, the same as circuit courts now have. Every police commissioner shall have the authority to administer oaths and take affidavits.

ARTICLE 17.

BOARD OF PUBLIC WORKS. 1233-1250.

SECTION.

- 1233. Public works, board of.
- 1234. Board of public works; election, term of office of members.
- 1235. Election of board.
- 1236. Salary of board of public works.
- 1237. Oath of office of members of board.
- 1238. Vacancies in office; how filled.
- 1239. Officers and assistants of board of public works.
- 1240. Board of public works, powers of.
- 1241. Board of public works, duties and powers of.
- 1242. Officers of cities must advise and assist board of public works.

SECTION.

- 1243. Board may purchase machinery, fixtures, material, etc.
- 1244. Funds, moneys, etc., appropriated to board; use, issuing, and payment of.
- 1245. Meetings of board of public works.
- 1246. Reports of board to council.
- 1247. Removal of members of board.
- 1248. Members of board shall not be interested in municipal contracts.
- 1249. Improvement of roads and streets, report of board to council.
- 1250. Additional and subsequent reports of board to council.

Board of Public Works.

1233. Public works, board of.—In cities of twenty-five thousand population or more there may be a board known as the board of public works, which shall consist of the mayor and four other members, to be elected first by the council and thereafter by the qualified electors of the city, in the manner hereinafter provided. At the first general election held in said city, or any subsequent election under the provisions of this chapter, upon a petition of two hundred qualified electors, the question of "Board of public works" and "No board of public works" shall be submitted to the qualified electors of said city. If a majority of the votes cast at such election be for "No board of public works," then there shall be no such board, and if there be any such board in such city the same is thereby abolished until an election shall be held at a regular biennial election which shall decide "For a board of public works," and no election shall be held on this question except at the regular biennial election held for city offices. If at any general election held in said city, under the provisions of this chapter, a majority of the qualified electors of said city shall vote "For board of public works," then such board is established for said city, and the same shall not be vacated until it is done at an election held for that purpose at a regular city election.

Aug. 13,
1907, p.
790, § 180.

The council, prior to the general municipal election to be held in September, 1908, may, by a vote of two-thirds of the members elected to the council, by ordinance, abolish any board of public works now existing—at such election; however, in cities having a board of public works, August 13, 1907, the question of "board of public works" or "no board of public works" shall be presented to the qualified electors of such city.

1234. Board of public works; election; term of office of members.—Immediately after an election is held in any city establishing a board of public works, the city council shall fill the membership of such board by appointing four members thereof, two of whom shall hold office for a term of two years and the other two for a term of four years, and the said council shall, at the time of such election, designate the terms for which each member is elected. Should any city have a board and the majority vote be for a board of public works, then the council shall elect a sufficient number of members to complete the membership of the board, and vacancies occurring thereafter shall be filled as herein provided.

The four members here provided for, together with the mayor of the city, shall constitute the board of public works for such city, and shall hold their offices until their terms shall have expired and until their successors shall have been elected and qualified.

Aug. 18,
1807, p.
790, § 180.

1235. Election of board.—Biennially thereafter, at the general election held for city officers, there shall be elected by the qualified electors of the city two members of the board of public works, who shall each hold office for four years and until their successors shall be elected and qualified, or unqualified, or until such board shall have been abolished in the manner herein provided for.

No person shall be eligible to membership on said board who holds a federal office, state or county office, or is an officer of the city, other than the mayor, or an employe thereof, or is a member of the council, or within six months after the expiration of his term therein. Nor shall said board elect an officer, nor employ or contract with any one who is related to any member of said board or any member of the city council, within the fourth degree of consanguinity or affinity, by the civil law. Said board may in the name of the city sell and contract as hereinafter provided, and may use the corporate seal of the city.

Ib., § 181.

1236. Salary of board of public works.—Said board may buy, sell, and contract as hereafter provided, and each member thereof, except the mayor, shall receive as a salary such sum as may be fixed by the city council at the first meeting held after their election, not to exceed the sum of five hundred dollars per annum, payable quarterly out of the city treasury, in the same manner as salaries of other officers are paid.

Ib., § 182.

1237. Oath of office of members of board.—Before entering upon the duties of his office, each member of the board shall take and subscribe the following oath: "I do solemnly swear that I will support the constitution of the State of Alabama and the constitution of the United States, and that I will faithfully, zealously, and impartially discharge the duties of the office upon which I am about to enter, without fear or favor, for the public welfare; so help me God."

Ib., § 183.

1238. Vacancies in office; how filled.—In case of death, removal, or resignation of any member of the board except the mayor, the board shall elect a suitable person to fill the vacancy so caused, which person so elected shall hold office for the unexpired term and until his successor is elected and qualified.

Ib., § 184.

1239. Officers and assistants of board of public works.—The officers of said board shall consist of a president and a secretary, provided that the city clerk shall be secretary of the board, without any further compensation than that paid to him as city clerk. The said board, if it deems the same necessary, may elect an assistant secretary, who shall receive such salary as may be fixed by the board, not to exceed the sum of fifty dollars per month. The president shall be elected

Board of Public Works.

at the first regular meeting of the board after their election or appointment as herein provided, or as soon thereafter as practicable, from among the members of said board, provided that the mayor shall not be eligible to the office of president, and provided further that the secretary and assistant secretary, where one is elected, shall not be a member of said board. The terms of the officers herein provided for shall be from the time of their election to the next regular city election, and until their successors are elected and qualified, except the assistant secretary, who may be removed by the board at pleasure, and his successor appointed by said board or his office abolished. Any vacancy in any office may be filled by the board by election, except the office of secretary. The board may require any or all officers of the same, or any employes thereof, to give bond for the faithful discharge of the duties of their respective offices, in such sum as the board may from time to time prescribe, and such bond shall be subject to the approval of the board.

1240. Board of public works; powers of.—The board of public works shall have full power and authority by formal resolution to make and promulgate all necessary rules, regulations, stipulations, and provisions for carrying out the works intrusted to it, and for the government of the officers or employes elected or employed by or acting under its authority, and for the regulation of the use of the property intrusted to its care.

Aug. 13,
1907, p.
790, § 186.

1241. Board of public works; duties and powers of.—The said board shall supervise all public works and public institutions of the city, except as otherwise provided by law. It shall have exclusive power, control, and supervision over the construction, opening, widening, grading, repairing, cleaning, filling, paving, curbing, bridging, protection, maintenance, extension, improvement, beautifying, and care of the streets, roads, avenues, parks, parkways, and alleys, including both sidewalks and roadways, drainage canals, drains, culverts, and ditches, and the prohibition and removal of obstruction and unsightly objects from such streets and other ways, and shall supervise and control the construction, improvement, and repairs of wharves, docks, landing-places, market-houses, viaducts, ship channels, streams, and water courses, in so far as not otherwise prohibited by law; the lighting, sprinkling, and cleaning of all public places and the construction of all public works and improvements and the condemnation or purchase of real property for city use, either within or without the city limits, or any rights, interest, or easement therein for any of the purposes authorized by this section. No power herein granted to said board shall be construed as abridging

Ib., § 186.

the power of the mayor and council to police the city and to enforce the laws and the order therein, or the powers herein granted to the city health officers for the enforcement of the laws relative to the health and sanitation of the city.

Aug 13,
1907, p.
700, § 187.

1242. Officers of cities must advise and assist board of public works.—Said board in carrying out its duties and powers shall have full authority to call on any officer or employe of the city for such advice, assistance, and services as they may be able to render, and also for a limited time and upon obtaining authority from the council, to employ additional attorneys and legal advisers, and also upon like approval to employ, discharge, and suspend such engineers or other employes of such board as in their judgment may become necessary, and to fix the terms of employment, salaries, and compensation of their said employes, subject to the approval of the council.

Ib., § 188.

1243. Board may purchase machinery, fixtures, material, etc.—Said board shall have full power and authority to purchase and order any and all machinery, tools, appliances, fixtures, materials, or other things necessary or expedient in executing the duties and powers of said board.

Ib., § 189.

1244. Funds, moneys, etc., appropriated to board; use, issuing, and payment of.—All funds appropriated from any source to the use of said board shall be kept separate from the other funds of the city and the same shall be drawn on only in such sums and at such times as the same shall be actually required for the expenditures authorized by law, and only upon warrants signed by the president of the board of public works and countersigned by the city clerk, and issued for claims that have been audited and ordered paid by said board. All such warrants shall be issued from a bound book, containing a stub or margin corresponding to each one, which stub or margin shall contain a receipt for such warrant, to be signed by the party to whom the same is issued, and shall be kept by the clerk, at all times subject to the inspection of the council and the board of public works. Both the warrant and corresponding stub or margin shall show the time of issuance, the amount of the same, for what purpose, what account, and by what authority, and to whom issued. Any person issuing any warrants for account of or in the name of such board of public works, without complying with the provisions of this article, shall be guilty of a misdemeanor. No warrant shall be drawn without a resolution of the board.

Ib., § 190.

1245. Meetings of board of public works.—Said board shall hold regular meetings at least once in each month at some office in the city set aside to it by the city council, and call meetings may be held at any time upon the call of the presi-

Board of Public Works.

dent or a majority of the board. Said board shall have the authority to enforce the attendance of its members in the same manner as the attendance of members of the city council is enforced. Three members of the board shall constitute a quorum, but a less number may adjourn from time to time and take steps to enforce the attendance of absent members. All meetings of the board shall be public and a true record of all the proceedings shall be kept by the secretary. At the call of any member, the vote on any pending question shall be taken by ayes and noes, and the same shall be entered on the record. The record of the proceedings of said board shall be open to the public, and a copy from said record, certified by the secretary, shall be competent evidence in all courts. Said board shall submit to the council at its first regular meeting in December of each year an itemized statement showing the estimated receipts and expenditures of said board for the ensuing fiscal year, giving in detail the sources of revenues and estimates of salaries and expenses proposed by said board, together with the estimated costs of proposed repairs, extensions, and improvements, separately stated, and if such statement shows a deficit, the council may appropriate from the general revenues of the city a sum sufficient to cover such deficit, or any part thereof, and said sum thus appropriated shall not be diverted from said board, or used by the mayor and council, but shall remain a separate fund in the hands of the city treasurer to be drawn only on the orders of said board; provided, however, that any portion of said sum, remaining unexpended at the end of the fiscal year, shall not be paid to said board, but shall be returned to the general fund of the city.

1246. Reports of board to council.—Said board shall make an annual report to the council at its first regular meeting in September of each year, showing in detail the receipts and expenditures for the preceding fiscal year; the physical condition of the property under the care of said board, and any other matters of public interest connected with said board. It shall also make a quarterly report of receipts and expenditures to the city council in such detail as may be required by the city council. Aug. 18, 1907, p. 790, § 191.

1247. Removal of members of board.—Any member of said board may be removed from office for incompetency, neglect of duty, or official misconduct, by impeachment by the council as herein authorized, and such proceedings must be commenced on the petition of fifty or more taxpayers of the city, and shall be conducted in the manner herein provided. Ib., § 192.

1248. Members of board shall not be interested in municipal contracts.—No member of said board, city official, or member Ib., § 193.

MUNICIPAL CORPORATIONS.

Board of Public Works.

of the council shall directly or indirectly have any personal interest or share in any way in the incomes or profits resulting from any contract with said board, or for the sale of any material to, or the performance of any service or labor for said board, or for material furnished or services rendered to any person in carrying out a contract with said board, nor shall any member of said board be an employe of any person, firm, or corporation contracting with the city, and no person, firm, or corporation shall have any contracts with the said board if any member of the said board of public works shall have been in the employ of such person, firm, or corporation within six months prior to the time of making such contract.

Aug. 18,
1907, p.
790, § 194.

1249. Improvement of roads and streets; report of board to council.—Whenever the board of public works shall deem it wise to pave or otherwise improve any street or alley, or public highway or portion thereof, said board shall decide the material with which, in its judgment, such work shall be done, and shall make an estimate of the cost thereof, and shall forthwith report to the city council of its decision as to such paving or improvement and the material and estimated costs thereof. Within thirty days after receiving such report the council shall act thereon, and may approve the proposed expenditure or disapprove the same, or may order that such paving or improvement shall not be done at all, without further authority, or said council may, if in its judgment the proposed expenditure be excessive, fix an amount which shall not be exceeded by the board. If such expenditure be so limited by the council, it shall be the duty of the board to make further estimates for such paving or improvements, unless it deems that the same cannot be judiciously done within such limit, and shall submit a further report to the council, which shall be acted on as above provided, and this course shall be pursued until a project of the board for such paving or improvement shall be fixed by the council, or until a limit of expenditure shall be fixed by said council so low that in the judgment of the board it is not judicious to do the paving or improvement with it.

12.

1250. Additional and subsequent reports of board to council.—In that case the board shall enter its decision or judgment upon its records and shall not be required to proceed further as to such paving or improving, but it may, at any time not less than thirty days after the entry of such judgment, take up again the matter of such paving or improving and submit a further report thereon to the council, upon which the same proceedings shall be had as hereinbefore provided for. Whenever the council shall approve any project of the board for paving or improving, it shall enter such approval

Ordinances and Resolutions.

upon its minutes and give formal notice thereof to the board, which shall by formal resolution order that such paving or improving be done and paid for as provided by ordinance. If necessary, the council may thereupon provide for the issuance of bonds of the character hereinbefore described and authorized to be used for such purpose, in an amount sufficient to pay the costs of such paving or improvement. The proceeds for the sale of such bonds shall be kept separate and apart from the general funds of the city and subject to the order of the board of public works, to be used by it only for such paving and improving, and the surplus, if any, for the redemption of said bonds issued therefor. Thereupon said board shall proceed to have such paving or improvement done.

ARTICLE 18.

ORDINANCES AND RESOLUTIONS. 1251-1259.

SECTION.

- 1251. Power to adopt ordinances.
- 1252. Style of ordinances; how adopted.
- 1253. Amendment of ordinances.
- 1254. Codification of ordinances.
- 1255. Officers' salary, fees, etc., how fixed.

SECTION.

- 1256. Employes, servants, etc., compensation, etc., how paid.
- 1257. Salary, fees, compensation, etc., not increased or diminished.
- 1258. Ordinances, publication and recording.
- 1259. Ordinances as evidence.

1251. Power to adopt ordinances.—Municipal corporations shall have power from time to time to adopt ordinances and resolutions not inconsistent with the laws of the state, to carry into effect or discharge the powers and duties conferred by this chapter, and to provide for the safety, preserve the health, promote the prosperity, improve the morals, order, comfort, and convenience of the inhabitants of the municipality, and to enforce obedience to such ordinances by fine not exceeding one hundred dollars and by imprisonment or hard labor not exceeding six months, one or both.

Aug. 13,
1907, p.
790, § 80

1252. Style of ordinances; how adopted.—The style of the ordinance of a city or town shall be, "Be it ordained by the city (or town) council of _____ as follows:" inserting the name of such city or town, as the case may be, and no ordinance or resolution intended to be of permanent operation shall be adopted by the council at the same meeting at which it is introduced, unless unanimous consent of those present is given for the immediate consideration of such ordinance or resolution, such consent to be shown by a vote taken by yeas and nays, and the names of the members voting to be entered upon the minutes, and no ordinance or resolution intended to be of permanent operation shall become a law unless on its

Ib., § 81.

final passage a majority of the members elected to said council, including the mayor of cities of less than six thousand inhabitants, and in towns, shall vote in its favor. The council shall award no contract on bids without a ye and nay vote spread upon the minutes.

Aug. 13,
1907, p.
790, § 81.

1253. Amendment of ordinances.—No ordinance shall be amended after its passage by providing that designated words be stricken out or that designated words be inserted, or that designated words be stricken out and other words inserted in lieu thereof, but the ordinance or section or subdivision thereof amended shall be set forth in full as amended.

Ib.

1254. Codification of ordinances.—The council may provide for the revision and codification of its ordinances at any time it may deem proper.

Ib., § 82.

1255. Officers' salaries, fees, etc.; how fixed.—It may be provided by ordinance that any city or town officer elected or appointed shall receive a salary in lieu of all other compensation, and in such cases such officer shall not receive for his own use any fees or other compensation for his services as such officer, but shall collect the fees authorized by law or ordinance and pay the same into the city or town treasury.

Ib., § 83.

1256. Employes, servants, etc.; compensation, etc.; how paid.—All employes of any city or town whose compensation is not fixed by law, shall receive such salary or fees for their services as the council may by ordinance from time to time prescribe. For all attested certificates and transcripts, other than ordered by the council, the clerk shall be paid fees not in excess of those allowed to county officers for like services, to be accounted for in all cases as other public moneys, where such clerk receives a salary or fixed compensation.

Ib., § 84.

1257. Salary, fees, compensation, etc., not increased or diminished.—The fees, salary, compensation, emoluments of any officer whose election or appointing is required or authorized by this chapter shall not be increased nor diminished during the term for which he shall have been elected or appointed, and no gratuitous appropriation in any case shall be made to or for the benefit of any officer or employe in addition to salary.

Ib., § 85.

1258. Ordinances; publication and recording.—All ordinances shall as soon as may be after their passage be recorded in a book kept for that purpose, and be authenticated by the signature of the clerk, and all ordinances or regulations of a general or permanent nature shall be published in some newspaper of general circulation in the city or town, but if no such newspaper is published within the limits of the corporation, such ordinances or resolutions may be published by posting copies thereof in three public places within the limits of the city

Powers, Authorities and Duties of Municipalities.

or town, two of which places shall be the postoffice and the mayor's office in such city or town. When the ordinance is published in the newspaper it shall take effect from and after its publication, and when published by posting it shall take effect five days thereafter, except as herein otherwise provided. Immediately following the record of any ordinance the clerk shall append a certificate stating therein the time and manner of publication thereof, which certificate shall be presumptive evidence of the facts stated therein. All ordinances granting a franchise shall be published at the expense of the party or parties to whom the franchise is granted.

1259. Ordinances as evidence.—Ordinances and resolutions purporting to be published by authority of the council, in book or pamphlet form, shall be received as evidence of the passage and legal publication of such ordinances as of the dates mentioned or provided for therein, in all courts and places, without further proof.

Aug. 18,
1907, p.
790, § 86.

ARTICLE 19.

POWERS, AUTHORITIES AND DUTIES OF MUNICIPALITIES. 1260-1295.

SECTION.

- 1260. Waterworks, gas and electric plants; power to establish, operate, and maintain.
- 1261. Waterworks established and maintained.
- 1262. Bonds issued for payment for waterworks.
- 1263. Purchaser at foreclosure sale; franchise rights of.
- 1264. Fire limits; plumbing, wiring, etc.; power to prescribe and regulate.
- 1265. Fire department, power to maintain and operate.
- 1266. Sidewalks, streets, openings to cellars, stairways, etc.
- 1267. Street railroads may run over tracks of one another.
- 1268. Telegraph, telephone lines, etc., use of streets for.
- 1269. Railroads and street railroads required to keep streets in repair.
- 1270. Scales, weights, measures, water courses, wharves, parks, boulevards, etc.
- 1271. Powder magazines, explosives, care of.
- 1272. Cars, trains, street crossings, grades, etc.

SECTION.

- 1273. Liability of municipality for negligent acts of agents, servants, etc.
- 1274. Actions and suits against municipality for negligent acts of agent, etc.
- 1275. Statements, claims, or demands for injury filed.
- 1276. Health and quarantine provisions.
- 1277. Hospitals, poor and almshouses.
- 1278. Nuisances provided against.
- 1279. Markets, regulation of.
- 1280. Wells, cisterns, care of.
- 1281. Slaughter houses, regulation of.
- 1282. Crematories, garbage, etc.
- 1283. Drainage, connection with sewers.
- 1284. Burial plots, cemeteries, graveyards, etc.
- 1285. Animals, stock; impounding, running at large.
- 1286. Plumbing, drainage, etc.
- 1287. Jails, hospitals, morgues, public baths, etc.
- 1288. Lands belonging to municipality, care of.

MUNICIPAL CORPORATIONS.

Powers, Authorities and Duties of Municipalities.

SECTION.

1289. Diseases, contagious, vaccination, etc.
 1290. Health, sewerage, etc.
 1291. Gaming.
 1292. Sewerage.

SECTION.

1293. Water closets, privies, etc.
 1294. Prostitution, houses of ill fame.
 1295. Adulterated food, drink, etc., inspection of.

Aug. 13,
 1907, p.
 790, § 87.

1260. Waterworks, gas, and electric plants; power to establish, operate, and maintain.—Cities and towns shall have the right to establish, purchase, maintain, and operate waterworks, or contract for a supply of wholesome water for its inhabitants; to establish, purchase, maintain, and operate a gas or electric light works, and to contract for the furnishing of gas or electricity to the city or town and surrounding territory; to regulate the manner and rates for furnishing gas, electricity, and water, after expiration of contract, and to prescribe the quality of gas or electricity furnished to the inhabitants by any person or corporation.

Aug. 10,
 1907, p.
 586, § 1.

1261. Waterworks established and maintained.—Cities and towns may construct or purchase and operate waterworks plants; such plants may be within or without such city or town; such plants may be purchased subject to incumbrances, and to contract to furnish water therefrom, the payment and performance of which may be assumed.

ib.

1262. Bonds issued for payment for waterworks.—In payment for such plants, cities or towns may issue their bonds in the manner provided by law, and the same may be secured by mortgage or deed of trust on the plants so purchased; by the terms of such purchase it may be provided that the revenue of such waterworks may be collected, controlled and disbursed by a commission selected in the manner and having the powers and term of office which may be agreed upon between the vendor of such plant and such city or town.

ib., § 2.

1263. Purchaser at foreclosure sale; franchise rights of.—By the terms of purchase, it may be further provided that the purchaser at a foreclosure under such mortgage or deed of trust shall have a franchise for not exceeding thirty years to operate such plant.

Aug. 13,
 1907, p.
 790, § 88.

1264. Fire limits; plumbing, wiring, etc.; power to prescribe and regulate.—The council shall have authority to prescribe fire limits in any city or town, and buildings of wood or other inflammable material shall not be erected therein; they may do all things necessary to prevent conflagration and give security to the inhabitants of the city or town from fires. They shall have the authority to adopt building laws, and may employ building inspectors to see that the laws are not violated, and that the plans and

Powers, Authorities and Duties of Municipalities.

specifications for buildings are not in conflict with the ordinances of the city or town, and to exact fees, to be paid by the owners of property inspected; to secure the safety of persons from fire in hotels and halls and in such other buildings as may be designated by the council to have and maintain ample means of exit in case of fire, and to refuse to license and prevent the use of such buildings for such purposes until such ordinances have been complied with. The council may adopt ordinances requiring buildings to be equipped with fire escapes when in the opinion of the council they are necessary. To condemn buildings, parts of buildings, or structures dangerous to the public, and prohibit the use thereof and abate the same as a nuisance. The council may make reasonable charges for the service of plumbing and electric wiring inspection, inspection of foods and foodstuffs, meats and vegetables, and weights and measures.

1265. Fire department; power to maintain and operate.— Aug. 18, 1907, p. 790, § 80. Cities and towns shall have full power to maintain and operate a volunteer or paid fire department, and may do any and all things necessary to secure efficient service. The council may delegate to commissioners by ordinance the power to control and manage such fire department under such rules and regulations as the commissioners or the council may prescribe.

1266. Sidewalks, streets, openings to cellars, stairways, etc. ib., § 90. —Cities and towns shall have the right to prohibit openings being made on the sidewalks for cellar entrances and to close the same, and may prescribe plans and specifications to be followed for such openings, if allowed; to prohibit stationary or movable stands from being placed on the sidewalks, and to do any and all things necessary to secure free and ample passageway thereon, including the removal of stairways; to prohibit the erection of awnings and verandahs and signs hanging over the streets and sidewalks, and may prescribe plans and specifications therefor, if allowed; shall require the sidewalks to be kept in repair, and if not repaired by the owners of property abutting thereon, upon reasonable notice, to be determined by the council in the manner to be provided by ordinance, they may be repaired by the municipality at the owner's expense, and the amount expended shall be a lien upon the property, which, with interest, may be collected as taxes or assessments.

1267. Street railroads may run over tracks of one another.— ib., § 91. Any street railroad company, operating its railroad by steam, electric, or other power, shall have the right and may be required by the council, to run its cars over the tracks of any other street railroad company, in whole or in part, in said city under such rules and regulations as may be prescribed by ordinance, upon the payment by the company so using the tracks

of another of just compensation for the use thereof, and the council shall pass such ordinances as may be necessary to carry this provision into effect.

Aug. 18,
1907, p.
790, § 91.

1268. Telegraph, telephone lines, etc.; use of streets for.—The council shall regulate the use of streets for the erection of telegraph, telephone, electric and all other systems of wires and conduits, and may require the same to be placed under ground if deemed necessary for the public convenience and safety, and generally to control and regulate the use of the streets for any and all purposes. The city council shall have power to sell, or lease in such manner as it may deem advisable, any franchise which it has power to grant, and the moneys received therefor shall be paid into the city treasury.

Ib., § 92.

1269. Railroads and street railroads required to keep streets in repair.—Street and other railroad companies shall be required to keep their tracks in repair, using such rails as may be prescribed, and shall maintain and keep in repair the streets between their rails and for eighteen inches on each side, in such manner as the council may prescribe. Any public utility using the streets of the city or town shall at all times, in the manner prescribed by the council, render the use of such streets safe to vehicles and to persons, and all tracks on such street shall, when required by the council, be placed at any fixed grade, and changed, free of expense to the municipality, when found necessary.

Ib., § 93.

1270. Scales, weights, measures, water courses, wharves, parks, boulevards, etc.—The council shall have the right to provide public scales and an inspection of weights and measures, and to provide punishment for persons, firms, and corporations using fraudulent weights and measures; to alter and change the channel of any water course in the police jurisdiction of the city or town, and to erect and maintain wharves and erect buildings and other improvements upon wharves, and lease them, in periods not exceeding ten years, or to collect wharfage dues thereon; to provide for lighting, sprinkling, and cleaning the streets by contract or otherwise; to establish, lay out, and improve public grounds, parks and boulevards, to regulate the same, and may provide music and other exhibitions for the amusement of the inhabitants.

Ib., § 94.

1271. Powder magazines, explosives; care of.—The council shall have the right to regulate and control, or prohibit the erection of, powder magazines within the police jurisdiction of the city, and to prevent explosives and dangerous substances from being stored within the city, and to regulate the manner in which explosives may be hauled or kept within the police jurisdiction; they shall have the right to compel public utility

Powers, Authorities and Duties of Municipalities.

corporations, using a franchise obtained from the municipality, to render efficient service to the inhabitants thereof.

1272. Cars, trains, street crossings, grades, etc.—The council shall have the right to prescribe reasonable regulations for the running of cars, trains, and locomotives on, over, upon, or across the streets, avenues, alleys, or public places of the city; to prescribe appliances, on grade crossing, for the safety of the public, and to regulate and control the switching of cars on crossings or highways of the municipality. Aug. 13, 1907, p. 790, § 94.

1273. Liability of municipality for negligent acts of agents, servants, etc.—No city or town shall be liable for damages for injury done to or wrong suffered by any person or corporation, unless said injury or wrong was done or suffered through the neglect, carelessness, or unskillfulness of some agent, officer, or employe of the municipality engaged in work therefor and while acting in the line of his duty, or unless the said injury or wrong was done or suffered through the neglect, carelessness, or failure to remedy some defect in the streets, alleys, public ways, or buildings after the same had been called to the attention of the council, or after the same had existed for such unreasonable length of time as to raise a presumption of knowledge of such defect on the part of the council, and whenever the city or town shall be made liable to an action for damages by reason of the unauthorized or wrongful acts, or the negligence, carelessness, or unskillfulness of any person or corporation, then such person or corporation shall be liable to an action on the same account by the party so injured. Ib., § 95.

1274. Actions and suits against municipality for negligent acts of agent, etc.—The injured party, if he sues the municipality for damages suffered by him, shall also join such other person or persons or corporation so liable as the defendant or defendants of the suit, and no judgment shall be rendered against the city or town, unless judgment is rendered against such other person or corporation so liable for such injury, except where a summons is returned not found as to a defendant or when judgment is rendered in his favor on some personal defense, and if an action be brought against the city or town alone and it is made to appear that any person or corporation ought to be joined as a defendant in the suit according to the provisions in the preceding section, the plaintiff shall be nonsuited, unless he amends by making such party or corporation a defendant if a resident of the state, but no person shall be sued jointly with the city or town who would not be liable separately, irrespective of this provision. When a judgment shall be obtained against a municipality and the other party liable as aforesaid, execution shall issue against the other defendant or defendants in the ordinary form, and shall not be

Powers, Authorities and Duties of Municipalities.

demandable of the city or town unless the other defendants are insolvent, and the same cannot be made out of their property, and the city or town shall pay only so much of the said judgment as cannot be collected out of the other defendants. If the injured party shall, before bringing suit, demand of the mayor of such municipality the name of such other person or persons or corporation as may be liable jointly with the said municipality to such injured party, and if such mayor fail to furnish, within ten days from the making of such demand, the name of such person or persons or corporation so jointly liable, the said injured party shall not be required to join such other person as a party defendant with said municipality in any suit brought to recover damages for such injuries.

Aug. 18,
1907, p.
790, § 95.

1275. Statements, claims, or demands for injury filed.—No recovery shall be had against any city or town on a claim for personal injury received unless a sworn statement be filed with the clerk, by the party injured, or his personal representative in case of his death, stating substantially the manner in which the injury was received and the day and time, and the place where the accident occurred, and the damages claimed.

Ib., § 142.

1276. Health and quarantine provisions.—In addition to the powers hereinbefore granted to them, all cities and towns of this state shall have the following powers, and the councils of such cities and towns may provide by ordinance, or resolution, for the exercise or enforcement of the same: To prevent the introduction of contagious, infectious, or pestilential diseases into such cities or towns; to establish and regulate a sufficient quarantine not inconsistent with laws of the state in the towns and cities and within the police jurisdiction thereof, and to punish any breach of quarantine law; to adopt such ordinances and regulations as the council may deem necessary to insure good sanitary condition in public places or in private premises in the cities and towns, and to prescribe the duties and fix the salaries and compensation for such health officials as they may deem necessary.

Ib., § 143.

1277. Hospitals, poor and alms houses.—To aid, establish, set up, and regulate hospitals, poorhouses, workhouses, houses of correction, and pesthouses, anywhere in the county in which the city or town is situated, and cause persons afflicted with contagious, infectious, or pestilential diseases to be removed to such hospitals or pesthouses as may be provided for the purpose, and to cause persons who have been exposed to such diseases, or any of them, to be removed to some suitable place of detention and detained for a reasonable length of time.

Ib., § 144.

1278. Nuisances provided against.—To prevent injury or annoyance from anything dangerous or offensive, or unwhole-

some, and to cause all nuisance to be abated and assess the cost of abating the same against the person creating or maintaining the same.

1279. Markets; regulation of.—To establish, regulate, and control markets and market houses, and to require and provide for the proper inspection of food, products, and articles offered for sale or barter within the police jurisdiction of the city or town, and for the punishment of persons or corporations offering for sale unsound or unwholesome articles in markets or other places in the city or town, or within the police jurisdiction thereof; to inspect all dairies and the products of the same in the county in which the city or town or any part thereof is located, the owner of which sells or disposes of milk or butter in such city or town, and to regulate the same, and the council may fix and prescribe the payment of a reasonable fee for such inspection; such council shall have the power to regulate the sale of meats, vegetables, fruits, and other articles, and to prescribe the localities and houses in which same may be sold.

Aug. 13,
1907, p.
790, § 145.

1280. Wells, cisterns; care of.—To construct, repair, and regulate public wells and cisterns, and to compel the screening of all wells, cisterns, and other places, in the city or town, in which water is collected, where mosquitoes or insects of like kind are apt to propagate; to compel the proper setting of gutters so as to prevent stagnant water therein, and to require weeds to be cut or other things or conditions favorable to the harboring of such insects to be abated, or to do such work at the expense of the owner, the same to be a lien on the property, to be collected as any other debts are collected, or liens enforced.

Ib., § 146.

1281. Slaughter houses; regulation of.—To establish, control, and regulate slaughter houses and pens, and to confine the same to a specified limit in or outside of the city or town, or prohibit the same within the police jurisdiction of the city or town, and to regulate the sale of fresh meats within the city or town, whether butchered therein or not, and to establish a system of inspecting such slaughter houses and such meats, either before or after the same are butchered, and to prohibit the sale of such meats after the same are condemned, and provide for the disposition thereof; to provide for the weighing and herding, outside of the city or town, of all live stock intended for slaughter, and to fix, regulate, and collect reasonable fees and charges to pay the expenses of carrying out the powers granted in this section.

Ib., § 147.

1282. Crematories, garbage, etc.—To establish and maintain crematories for the destruction of garbage and like substances, either within or without the city limits, and to haul or cause to be hauled to such crematories, trash and garbage of all kinds,

Ib., § 148.

and cause the destruction of the same therein, and to fix and collect such reasonable fees as may be necessary to carry out the provisions of this section.

Aug. 13,
1907, p.
790, § 149.

1283. Drainage, connection with sewers.—To establish or build drains, and may require private or public premises to be connected with the sewer system for proper drainage or sanitation, and to regulate the manner of connection therewith; to adopt and enforce all such laws, ordinances, and resolutions necessary to compel the owners of real property to ditch and drain the same at such owner's expense, and to punish any neglect of such owner or person in charge of said lots or property. and on failure of the owner after ten days' notice so to do, the city or town may ditch and drain such premises at the expense of such owner, the same to be a lien on such property, to be collected as other debts are collected or liens enforced. The notice required herein shall be by personal service or by posting a notice on the premises.

Ib., § 150.

1284. Burial plots, cemeteries, graveyards, etc.—To own, regulate, and improve, to lay out and control, town or city cemeteries, and permit additions thereto and the establishment of new ones, either within or without the town or city limits, and to sell burial lots in the same; and to regulate or prohibit the establishment or use of private cemeteries within the police jurisdiction of a city or town elsewhere than in the city or town cemeteries.

Ib., § 151.

1285. Animals, stock; impounding, running at large.—To regulate and prevent the running at large on the streets, of all horses, mules, cows, hogs, dogs, or other animals, and to pass all laws necessary for the impounding and sale of such animals, and destruction of dogs; to regulate and prohibit the driving of live stock in droves through the streets of a city or town.

Ib., § 152

1286. Plumbing, drainage, etc.—To prescribe the location and manner in which drainage from private premises may be disposed of, and to prescribe the manner in which plumbing shall be constructed, and to forbid the use of the same while out of order or defective, and may discontinue or forbid the use of sinks, pits, dry wells, and surface closets, and may regulate and compel the connection of private or public premises with the sewer system of the town or city, and the council shall have the power to punish the owner of any property who shall fail to make such connection, after ten days' notice to so do, and to prevent the lease, rental, or use of any property after notice that such connections have been required until the same shall have been made. If such owner fail or refuse, after ten days' notice, to make the connection, the town or city may cause the same to be made, at such owner's expense, and the cost thereof

shall be a lien on such property, prior to all other liens, except for taxes, and the same may be collected as other debts are collected or liens enforced. The notice to make the connection provided for in this section must be given in writing to the owner, agent, or occupant of the premises.

1287. Jails, hospitals, morgues, public baths, etc.—To establish, erect, maintain, and regulate jails, morgues, houses of refuge, station houses, and prisons, public baths, and bath houses; to own, establish, maintain, and regulate public hospitals, and to purchase and provide for any and all things which may be deemed advisable or necessary thereto, and to receive donations and bequests of property or money in trust or otherwise, for the exercise of all such powers, rights, and duties incident to the same. Aug. 13, 1907, p. 790, § 153.

1288. Lands belonging to municipality; care of.—To exercise police jurisdiction over all lands purchased or required by the city or town for the purpose of being used or occupied as a hospital, quarantine station, poorhouse, pesthouse, workhouse, or house of correction, schoolhouse, sanitary or storm water sewers, rights of way, cemeteries, and parks, and the laws and ordinances of the cities and towns shall apply to and extend over all the lands so used or occupied, and the inhabitants thereof. Ib., § 154.

1289. Diseases, contagious, vaccination, etc.—To adopt all necessary ordinances and enforce the same to prevent the introduction or spread of contagious, infectious, or pestilential diseases in the cities or towns, and to that end may provide for a system of compulsory vaccination and enforcement of the same. Ib., § 155.

1290. Health, sewerage, etc.—To maintain the health and cleanliness of the city or town, and to this end to adopt and maintain an efficient system of sewerage; to build and construct underground sewers through private or public property, anywhere in said city or town, or the police jurisdiction thereof, and where the same is constructed through private property, to pay the owner thereof such damage, if any, as will thereby be done to such property. And the city or town may, when necessary, acquire the necessary rights and easements by condemnation, in the manner prescribed by the constitution and laws of the state, or the condemnation of lands for public uses. Ib., § 156.

1291. Gaming.—To restrain and prohibit gaming, and the keeping of gambling houses or tables, and may, by ordinance, authorize the police to enter such house or part thereof, seize all gambling implements, and arrest all persons therein, whenever any reputable person shall make affidavit that he has good

Powers, Authorities and Duties of Municipalities.

cause to believe and does believe that any house is being kept for the purpose of carrying on gambling therein.

Aug. 13,
1907, p.
700, § 157.

1292. Sewerage.—To extend or alter the system of sewerage, and extend the mains wherever, in the opinion of the city or town council, it may be necessary or expedient to do so, and to extend the mains to any point in the county in which it is situated, and for these purposes, the said city or town council shall have and exercise the full rights of eminent domain, and may acquire such lands or easements therein and the uses of such waterways as may be necessary, by the proceedings provided by law for acquiring private property for public uses.

Ib., § 158.

1293. Water closets, privies, etc.—To regulate water closets and the construction thereof, and to compel the installation of the same and connection with the sewerage systems of the city or town, and in case of a failure to install or connect, after reasonable notice, then the city or town shall install proper water closets and connect the same with the sewerage system of the city or town, at the expense of the owner, the cost thereof to be a lien upon the property, to be collected as other debts are collected or liens enforced.

Ib., § 159.

1294. Prostitution; houses of ill fame.—The council shall have the power to prohibit houses of prostitution and to punish the inmates thereof as vagrants or otherwise.

Ib., § 160.

1295. Adulterated food, drink, etc.; inspection of.—To prohibit and prevent the gift, barter, sale, or display of impure or adulterated foods and drinks of diseased or unsound meats, or decayed fruit or vegetables, or impure, adulterated, unsound, or unwholesome articles of food or drink of any kind, and to provide all such inspection laws as may be deemed advisable or necessary, and to prescribe and require the payment of all such reasonable fees as may be necessary to defray the expenses of carrying out the powers granted in this section.

ARTICLE 20.

RAILROAD TRACKS, BRIDGES, VIADUCTS, TUNNELS, ETC., PROVIDED FOR.
1296-1301.

SECTION.

1296. Municipalities which may require bridges, viaducts, tunnels, etc., to be erected and maintained.

1297. Vacation of streets provided for.

1298. Ordinance requiring viaducts, bridges, tunnels, etc., costs apportioned between railroads.

SECTION.

1299. Failure of railroad to comply with ordinance requiring viaduct, bridges, tunnels, etc., penalty for such failure.

1300. Chancery court may compel compliance with ordinance.

1301. Appeal by railroad from order or ordinance requiring bridges, tunnels, viaducts, etc.

1296. Municipalities which may require bridges, viaducts, tunnels, etc., to be erected and maintained.—The city council, or other governing body, of each city in the State of Alabama having, according to the next preceding federal census, a population of more than thirty-five thousand, shall have full power and authority to require railroad companies to construct and maintain, within the city limits, viaducts, bridges, and tunnels, or parts of viaducts, bridges, and tunnels, and their approaches, over, along, or under their tracks, at their own expense; such bridges and their approaches, tunnels, or other conveniences at public crossings, and such viaducts, and their approaches over their tracks where the same cross or extend along public highways or streets. Aug. 12,
1907, p.
726, § 1.

1297. Vacation of streets provided for.—No viaduct, bridge, or tunnel shall be constructed under this article unless said governing body shall have provided for a vacation of the street upon completion of said viaduct, bridge, or tunnel, throughout that portion thereof over, along, or under which the said public improvement is proposed to be constructed; the fee of the street, nevertheless, to remain in the city. Ib.

1298. Ordinance requiring viaducts, bridges, tunnels, etc.; costs apportioned between railroads.—Whenever any such governing body shall deem any such improvement necessary, it shall pass an ordinance requiring the construction of such improvement, describing the character and location of such proposed improvement with reasonable certainty, and stating the estimated cost thereof, and fixing a reasonable time for the construction of the same; and where a viaduct, bridge, or tunnel crosses over or passes under the tracks of two or more railroad companies, the said governing body shall have full power and authority to apportion the cost thereof, equitably, among the different railroads owning the said tracks. Ib., § 2.

Aug. 13,
1907, p.
736, § 3.

1299. Failure of railroad to comply with ordinance requiring viaduct, bridges, tunnels, etc.; penalty for such failure.—Any such governing body may penalize the failure of any such railroad company or of such railroad companies to construct, within a reasonable time, or to maintain, any such viaduct, bridge, or tunnel ordered by a proper ordinance; such penalties to be prescribed as provided in the charter of said city for violations of police ordinances, and such penalties may be directed against said railroad company or railroad companies, or against its or their officers or agents, having supervision, charge, or control of or operating the same, any or all.

Ib.

1300. Chancery court may compel compliance with ordinance.—Such governing body may also, by bill filed in any court having chancery jurisdiction in the county in which the city is situated, compel a compliance with any or all proper ordinances ordering the construction or maintenance of viaducts, bridges, or tunnels, passed under the authority of this article, express jurisdiction being hereby conferred on all chancery courts of this state to that end.

Ib., § 3¾.

1301. Appeal by railroad from order or ordinance requiring bridges, tunnels, viaducts, etc.—The railroad companies so ordered by such governing body to construct and maintain viaducts, bridges, and tunnels, shall have the right to appeal to any court having chancery jurisdiction in the county in which the city is situated, from the order of such governing body and from any order made penalizing such railroad companies for their failure to construct and maintain such viaducts, bridges, and tunnels, on such appeal the railroad company shall give such bond as may be prescribed by said chancery court.

ARTICLE 21.

DRAINAGE, SEWERS, ETC. 1302-1308.

SECTION.

1302. Powers to construct and maintain drainage, sewers, etc.
1303. Powers to condemn or purchase property for such purpose.
1304. May compel owners to ditch or drain their property.

SECTION.

1305. Compelling connection with sewers, etc.
1306. Plumbing regulated.
1307. Closets, sinks, cesspools, etc., regulated.
1308. Notice and publication of exercise of any powers, under this article.

Mar. 12,
1907, p.
343, § 1.

1302. Powers to construct and maintain drainage, sewers, etc.—All cities and towns may make all needful provisions for the drainage of such city or town; may construct and maintain sanitary and storm-water sewers or sewer systems, either within or without the corporate limits of the city or town; may

Drainage, Sewers, Etc.

construct and maintain ditches, surface drains, aqueducts, and canals; build and construct under ground sewers through private property, either within or without the corporate limits of such city or town, but just compensation must first be made for the property taken, injured, or destroyed.

1303. Powers to condemn or purchase property for such purpose.—They may acquire, whenever necessary, the requisite rights and easements by condemnation in the manner prescribed by the constitution and laws of Alabama, for the condemnation of lands for the public use. MAR. 12,
1907, P.
343, § 1.

1304. May compel owners to ditch or drain their property.—Ib. They may compel the owners of real property to ditch and drain the same at the expense of the property owner, and to punish any refusal or neglect of such owner to ditch or drain such property.

1305. Compelling connection with sewers, etc.—They may Ib. require public or private premises to be connected with the sewer systems, when constructed, and may regulate the manner of making such connections.

1306. Plumbing regulated.—They may prescribe the rules Ib. and regulations under which plumbing shall be constructed, and the materials which may be used, and the manner of constructing such plumbing, and the inspection thereof; may authorize the condemnation of defective plumbing, and forbid the use of the same while out of repair or defective.

1307. Closets, sinks, cesspools, etc., regulated.—They may Ib. forbid the use of sinks, cesspools, dry wells, and surface closets; may regulate water closets and the use thereof, and compel the installation and the connection of the same with the sewer system; prescribe the manner in which drainage from private premises may be disposed of, and the location of such drains; and may punish any person who shall fail to make connection with the sewer system after he has been required to do so, and prevent the occupation of any property after notice of such connections have been required until the same have been made.

1308. Notice and publication of exercise of any powers, under this article.—Whenever in the exercise of any power Ib., § 2. granted under this article, notice is required to be given, the mayor and aldermen, or other governing body, who shall have the right to designate a person or persons to give such notice, who shall be a bonded officer of the municipality, and to make returns upon the same, and such return shall be prima facie evidence of such notice. Personal notice to nonresidents shall not be necessary, and the mayor and aldermen, or other governing body, may provide and fix the character of the publication

Cemeteries, Graveyards, Burial Grounds, Care and Maintenance of.

of notice to nonresidents, which shall be given by publication once a week for three weeks, or by posting for the same time in three public places in said city or town where no newspaper is published therein, but the manner of making the same shall not be inconsistent with the general laws of the State of Alabama on the subject. Whenever any notice to a resident property owner is returned not found, the mayor and aldermen, or other governing body, may prescribe and issue alias notices to be served as in the case of the original notice; two returns of "not found" as to a resident property owner shall authorize the mayor and aldermen, or other governing body, to proceed to give notice to such resident property owner by publication, as herein required to be given to nonresidents.

ARTICLE 22.

CEMETERIES, GRAVEYARDS, BURIAL GROUNDS, CARE AND MAINTENANCE OF.
1309, 1310.

SECTION.

1309. Contract for care and maintenance of.

SECTION.

1310. Contract by ordinance and recorded.

Aug. 7,
1907, p.
624, § 1.

1309. Contract for care and maintenance authorized.—Any incorporated city or town, having within its corporate limits an ancient, family cemetery or burial ground, may make and enter into a contract with any interested party or parties, obligating and binding such city or town to forever protect, maintain, and properly care for such cemetery or burial ground, upon terms and conditions as may be agreed upon, and for such compensation as it may see fit to accept.

Ib., § 2.

1310. Contract by ordinance, and recorded.—All contracts made under the provisions of this article shall be by ordinance, which shall state all the terms and conditions of the contract, and the same shall be passed and approved as other ordinances of such city or town, and recorded upon the minutes thereof.

ARTICLE 23.

TAXATION. 1311-1337.

SECTION.

- 1311. Levy and assessment of municipal taxes.
- 1312. Taxes, when due and delinquent.
- 1313. Assessments, force of judgments; execution therefor.
- 1314. Taxes, lien of.
- 1315. Tax sale, title of.
- 1316. Taxes, garnishment for collection.
- 1317. Unknown owners, sale of property.
- 1318. Taxes, demand for payment.
- 1319. Delinquent taxes, list of.
- 1320. List of delinquents filed in chancery court.
- 1321. Publication as to unknown owner.
- 1322. Tax sales in chancery court.
- 1323. Tax sales for street improvements.
- 1324. Tax sales, proceeds thereof.

SECTION.

- 1325. Tax sales, purchase by municipality.
- 1326. Tax sales not void because of irregularities.
- 1327. Taxes, escaped taxes, assessment for.
- 1328. Tax sales, redemption from.
- 1329. Redemption; deeds and conveyances to redemptioners.
- 1330. Redemption by municipality.
- 1331. Tax sale; purchase at; right of possession.
- 1332. Tax sales; appeals to supreme court.
- 1333. Attachment or garnishment for collection of taxes.
- 1334. Taxes, no release or exemption from.
- 1335. Taxes, special road or bridge; one-half to municipality.
- 1336. Roads, exemption of inhabitants from working.
- 1337. Notice by town tax collectors.

1311. Levy and assessment of municipal taxes.—After the 1st day of October of each year, cities and towns may levy taxes upon property and all subjects of taxation liable therefor, at a rate not in excess of the constitutional limit, upon assessments to be made by the city or town clerk, or other person designated by the council, such assessments to be made on the state assessment in the manner provided by the constitution of the state, or in the manner hereinafter authorized by law. After the assessment has been made, it shall be returned to the council, which shall thereupon give ten days' notice, by publication in a newspaper published in the city or town, or if no newspaper is published in such city or town, then by posting notices in three or more public places in such city or town, that the assessment has been completed and that the council will hear and determine objections thereto upon a day not more than thirty days from the date on which said notice was directed to be made; the council may, however, authorize such assessment to be made by a board of assessors, who, when the assessment has been completed, shall give a similar notice that such board will hear and determine objections to the assessment at a time and place designated in such notice, not more than thirty days thereafter. On the day set for the hearing of objections, the council or board, as the case may be, shall hear such objections and determine the assessment.

Aug. 13.
1907, p.
790, § 107.

- Aug. 13, 1907, p. 790, § 187.** **1312. Taxes; when due and delinquent.**—After assessment taxes shall become due on the 1st day of December, and delinquent on the 1st day of January following, and shall, after becoming delinquent, bear the legal rate of interest.
- ib., § 108.** **1313. Assessments; force of judgments; execution therefor.**—After the assessment has been corrected by the council or board, it has the force and effect of a judgment against the property, or against the person owning the same, and after delinquency, may be enforced by an execution issued by the clerk to be levied upon the personal property of the person against whom such taxes were assessed, or against the property which was so assessed for taxation. The execution may be in form provided by the council, and may be levied by the chief of police or other person designated by the council, and the property so levied upon may be sold by such officer upon notice required by law for the sale of personal property by the sheriff, at a time and place designated in the notice.
- ib., § 109.** **1314. Taxes; lien of.**—Cities and towns shall have a lien for taxes upon all property assessed for taxation, which shall be superior to all other liens, except for taxes held by the state and county.
- ib.** **1315. Tax sale; title of.**—The purchaser of personal property sold under an execution issued by the city or town clerk, shall receive a title clear of all encumbrance, except of liens held by the state and county.
- ib.** **1316. Taxes; garnishment for collection.**—Garnishments may be issued by justices of the peace upon such assessments as upon judgments in such courts, for the collection of such taxes, upon affidavit being made, as in other cases, by an officer of the city.
- ib.** **1317. Unknown owners; sale of property.**—When property, other than real, is assessed to an unknown owner, the taxes due may be collected by a levy of execution upon such property and a sale thereof.
- ib.** **1318. Taxes; demand for payment.**—Cities and towns may provide for a personal demand of taxes due, and are authorized to make a charge therefor, not exceeding fifty cents, to be paid as costs, but such demand shall not be necessary or essential to the validity of proceedings to make collection by law.
- ib., § 110.** **1319. Delinquent taxes; list of.**—Within three months after taxes shall have become delinquent, a list shall be made out and certified by the city or town clerk, describing each piece of property separately, with the name of the owner, if known, and the amount of taxes due on such property, and the amount of taxes due by such owner upon personal property, which also may be collected by a sale of the realty as for taxes due thereon.

Taxation.

1320. List of delinquents filed in chancery court.—Such lists shall be filed with the register in chancery, or like officer of a court of the county having equity jurisdiction therein, hereinafter called register. The register shall cause to be docketed, in such court, in a well bound book kept for that purpose, a cause for each assessment of property, of the city or town against such property so assessed. Said docket shall show the amount of the taxes sought to be collected, a description of the property, and the name of the owner, if known. Upon the filing of the certificate, the register is directed to issue a summons, as in chancery cases, containing a description of the property, notifying each owner of the filing of the proceedings against his property; only one summons, however, shall be necessary if two or more pieces of property are assessed to the same owner. Such summons shall forthwith be executed by the sheriff and returned to the register within ten days.

Aug. 13,
1907, P.
700, § 110.

1321. Publication as to unknown owner.—In the case of property of an unknown owner, or when the sheriff returns "Not found" after ten days, as to owners for whom he has a summons, the register is directed to cause publication to be made for thirty days of the fact of the filing of such tax list, giving a list of the property assessed to owners unknown, and to persons for whom a summons has been returned by the sheriff "Not found."

1322. Tax sales in chancery court.—If no pleading setting up a defense shall be filed by the owner of the property, within thirty days after publication has been perfected, or within thirty days after service of the notice by the sheriff, then without further proof a final decree shall be made by the chancellor or judge of such court, adjudging such property liable for such taxes and directing the register to sell such property for the payment of the taxes, charges, penalties, interests, and costs that are charged thereon, unless the amount due and costs shall have been paid to the register before the sale, such sale shall be made as in other chancery cases, and need not be confirmed by the court. The chancellor or judge may consolidate cases against property assessed to the same owner, and may designate the property which shall be sold to pay the taxes, charges, interests, penalties, and costs charged to all. And if any defense is made by the owner, the court shall proceed to give relief under its own rules of procedure, the certificate, however, filed in said court being prima facie evidence of the facts contained therein.

1323. Tax sales for street improvements.—If any assessment for street improvements, or otherwise, are due and unpaid, the amounts assessed against such property may also be certified by the city or town clerk, to the register, and may be collected

ib., § 111.

out of the proceeds of the sale of such property, as in the case of taxes, but no sale of property by the city for taxes shall relieve the property of the lien for assessments due the city, and no sale for assessments shall relieve the property of the lien for taxes due the city, unless the same shall have been paid.

Aug. 13,
1907, p.
790, § 112.

1324. Tax sales; proceeds thereof.—All proceeds arising from sales for taxes, or assessments, shall be paid over by the register, after deducting the costs and expenses of such cause, to the treasurer of the city or town who shall hold for the owner, upon his official bond, the surplus after deducting the amounts due the city or town, the costs in each case, however; in no event, to exceed ten dollars, exclusive of advertising fee.

Ib., § 113.

1325. Tax sales; purchase by municipality.—The city or town may become the purchaser at such sale, and the officer making the purchase shall bid a sum sufficient to pay the full amounts due for taxes, assessments filed, interest, and costs, and the amount due the city or town shall be allowed as a credit on such purchase.

Ib.

1326. Tax sales not void because of irregularities.—The sale of property for taxes or assessments shall not be invalid on account of the manner of assessment for any other reason than that the taxes or assessments thereon have been paid, but if for any reason the proceedings in the chancery court shall not be sufficient to pass the title, the lien of the city for taxes or assessments shall pass to the purchaser and may be enforced by him in a court of equity, or may be collected by the municipality in any other case against the same property, and if collected, said sum shall be paid over to such purchaser.

Ib., § 114.

1327. Taxes; escaped taxes; assessment for.—At any time within five years after property has escaped taxation, the council or board of assessors shall have the right to make assessments against such property for such escaped taxes, or against the person owning such property, and such taxes shall be collected by certification to a court of equity, as in other cases, or by the levy of execution herein provided. And for any informality or irregularity in any assessment, they shall have the right to make a reassessment against such property at any time within five years.

Ib., § 115.

1328. Tax sales; redemption from.—Such persons as are authorized to redeem property sold at state tax sales, may redeem from the purchaser at any sale for municipal taxes or assessments at any time within two years after the sale, upon paying to the purchaser or to the city treasurer the amount for which the property was sold and fifteen per centum per annum, and such sums as the purchaser may have paid for taxes and

Taxation.

assessments, and the interest thereon, and all sums for which such parties may have become liable, on account of taxes or assessments, to pay by reason of owning the property, together with the sum of two dollars to pay the cost of reconveyance of such property.

1329. Redemption; deeds and conveyances to redemptioner. Aug. 18, 1907, p. 790, § 115.
 —Upon the tender by such party offering to redeem, and the payment thereof to the purchaser, or a deposit of the sum due to the purchaser with the treasurer, the deed executed by the register shall be void, and upon a refusal of the purchaser or his vendee to reconvey to the parties redeeming, the council may authorize a deed to be made to the parties redeeming, which shall convey all title the city or the purchaser derived at such tax sale, but the interest of the owner of the property and the parties in interest redeeming shall be adjusted between the parties as are other legal and equitable interests.

1330. Redemption by municipality.—The city or town may Ib. redeem property at any sale made by the state for taxes, upon the same terms as required by law for owners to redeem, and no person shall be allowed to redeem from the municipality, without paying to the city or town, the amount paid to redeem such property, and all claims of the city or town thereon for taxes, assessments, and penalties, or otherwise, and no redemption shall be made in any case from the municipality or from a purchaser after two years from the date of the sale.

1331. Tax sale; purchase at; right of possession.—Pur- Ib., 116. chasers at a municipal tax sale shall have the right of possession of the property so purchased, and may enforce the same by an action of unlawful detainer, or by an action of ejectment, and there shall be no liability to account for rents and profits to the party redeeming.

1332. Tax sales; appeals to supreme court.—Appeals super- Ib., § 117. ceding the decree of the lower court may be taken to the supreme court from any final decree in any tax case, upon the appellant entering into bond, with good and sufficient sureties, in an amount to be fixed by the chancellor or judge of the court rendering the decree, conditioned to pay the judgment of the supreme court when rendered, provided that no sureties on any bond shall be required of a city or town.

1333. Attachment or garnishment for collection of taxes.— Ib., § 118. If the mayor or clerk shall have reason to believe that the city or town will likely lose taxes by the fact that a person is moving away, without paying same, at any time after assessment, whether such taxes are due or not, he shall cause attachment or garnishment proceedings to issue from the court of a justice of the peace against such person, as upon a judgment in such

Taxation.

court, upon affidavit being made that the party is about to move from the city, and that there is danger of the city losing its taxes, whereupon the taxes are declared to be due and collectible, and may be collected by the justice as in other cases.

Aug. 18,
1907, p.
790, § 119.

1334. Taxes; no release or exemption from.—No municipality shall have the right to release any person from lawful taxes or burdens imposed by law, but this shall not prevent the settlement of claims where doubt exists as to the validity or extent thereof, but all compromises shall be adopted by the council by a resolution or ordinance as of permanent operation.

Ib., § 120.

1335. Taxes, special road or bridge; one-half to municipality.—After the 13th day of August, 1907, courts of the county commissioners and boards of revenue of the county where there is levied a special road and bridge tax, or either, shall pay over, each year, to each municipality therein, one-half of the money collected on such road and bridge tax, or either, on the property located in such municipality; such sums, when paid over to the municipality, shall be used exclusively for the purpose of maintaining the streets and bridges in the corporate limits of such municipality. Any money derived from a levy of a special bridge tax not expended by the municipality in maintaining the bridges within its corporate limits, in any year, shall be returned to the board of revenue or court of county commissioners, and credited to the county bridge fund for the purpose of maintaining bridges of the county outside the corporate limits of such municipality.

Ib., § 121.

1336. Roads; exemption of inhabitants from working.—The inhabitants of any municipality shall be exempt from working on the roads or highways outside the limits thereof, and may be required, for the support of the streets within such limits, to pay a street tax of not exceeding five dollars per year.

Oct. 10,
1908, p.
410, § 1.

1337. Notice by town tax collectors.—Tax collectors of towns and cities of less than seven thousand inhabitants who do not have a known place of business, with known hours of business during each day, shall not be allowed to collect any fee for any delinquent taxpayer unless he gives such taxpayer thirty days' written notice of the amount of his taxes and when they will become delinquent.

ARTICLE 24.

LICENSE TO CARRY ON BUSINESS, TRADES, ETC. 1338-1347.

SECTION.

- 1338. License to auctioneers, sales of goods, etc.
- 1339. License to business, trade, profession, etc.
- 1340. Drays, carriages, wagons, etc.
- 1341. Theaters, tenpins, shooting galleries, and liquor houses.
- 1342. License, power to revoke.

SECTION.

- 1343. License for year or part of year.
- 1344. License, unlawful to engage in business without.
- 1345. License designates place of business.
- 1346. License for two or more businesses.
- 1347. Games, amusements, license for.

1338. License to auctioneers, sales of goods, etc.—Municipal corporations shall also have the following powers: To regulate auctioneering and to regulate, license, or prohibit the sale at auction of goods, wares, and merchandise, or of live domestic animals in the streets or public places of the town or city, and to regulate, license, or prohibit the selling of other goods, wares, merchandise, or medicines on the streets of such town or city. Aug. 13,
1907. p.
700, § 98.

1339. License to business, trade, profession, etc.—To license any exhibition, trade, business, vocation, occupation, or profession not prohibited by the constitution or laws of the state, which may be engaged in or carried on in the city or town; to fix the amount of licenses, the time for which they are to run not exceeding one year, and provide a penalty for doing business without a license, and to charge a fee of not exceeding fifty cents for issuing each license; to require sworn statements as to the amount of capital invested, or value of goods or stocks, or amounts of sales or receipts where the amount of the license is made to depend upon the amount of capital invested, or value of goods or stocks or amount of sales or receipts, and to punish any person or corporation for failure or refusal to furnish sworn statements or for giving of false statements in relation thereto. The license herein authorized as to persons, firms, or corporations engaged in business, in connection with the interstate commerce, shall be confined to that portion within the limits of the state and where such person, firm, or corporation has an office or transacts business in the city or town imposing the license. Ib., § 97.

The power to license conferred by this article may be used in the exercise of the police power as well as for the purpose of raising revenue, one or both.

1340. Drays, carriages, wagons, etc.—To regulate and license the use of carts, drays, wagons, coaches, omnibuses, Ib., § 98



License to Carry on Business, Trades, Etc.

and every description of carriages and vehicles kept for hire and to license and regulate the use of the streets of the town or city by persons who use vehicles or solicit or transact business thereon.

Aug. 18,
1907, p.
790, § 99.

1341. Theaters, tenpins, shooting galleries, and liquor houses.—To license, tax, regulate, restrain, or prohibit theatrical and other amusements, billiard and pool tables, nine or tenpin alleys, box or ball alleys, shooting galleries, theaters, parks, and other places of amusement, and the selling, retailing, wholesaling, or giving away of spirituous, vinous, or malt liquors, intoxicating bitters, or beverages, when not prohibited by law; when in the opinion of the council the public good or safety demands it, to refuse to license any or all such businesses and to authorize the mayor by proclamation to cause any or all houses or places of amusement or houses or places for the sale of intoxicating liquor, or houses or places for the sale of firearms or other deadly weapons, to be closed for a period of not longer than the next meeting of the city or town council.

1342. License; power to revoke.—The city or town council shall have the right and power to revoke and cancel any and all licenses issued for the sale of spirituous, vinous, or malt liquors, or the license or licenses of any house of public entertainment or house or place where firearms or other deadly weapons are kept for sale, when in their judgment the public safety, peace, good order, or decency may require it; and when the owner thereof, or person operating the same, shall have been convicted of any violation of the city or town ordinances regulating such business, the council may cancel the license.

ib., §§ 100,
101, and
102.

1343. License for year or part of year.—Any person, firm, or corporation desiring to enter into or carry on the business as a retail dealer in spirituous, vinous, or malt liquors, when granted permission by the council to do such business, shall take out and pay for a license either for the entire year, where the business is commenced prior to the first day of July of any year, or for half the year, where the business is begun after the first day of July of any year. All license shall expire on the 31st day of December of the year for which they are issued.

In case the license of any business, trade, occupation, or profession be taken out after the first day of July, only one-half of the license shall be charged and collected, except those subjects for which daily, weekly, or monthly, quarterly semi-annually licenses are provided.

No license shall be transferred, except with the consent of the council, and no license shall be transferred more than once, and never from one business to another.

License to Carry on Business, Trades, Etc.

1344.—License; unlawful to engage in business without.—Aug. 13,
1907, p.
790, § 10a.

It shall be unlawful for any person, firm, or corporation, or agent of a firm or corporation, to engage in any of the businesses or vocations in a city for which a license may be required without first having procured a license therefor, and any violation of this article or of any ordinance passed hereunder, fixing a license, shall be punishable by such fine as may be fixed by ordinance not to exceed the sum of one hundred dollars for each offense, and by imprisonment not exceeding six months, either or both at the discretion of the court trying the same, and each day shall constitute a separate offense.

1345. License designates place of business.—

Ib., § 10a.

Any person desiring to engage in any trade, business, profession, or occupation for which a license is or may be required shall designate the place at which such trade or business, or occupation or profession is to be carried on, and the license to be issued hereunder shall designate such place, and such license shall authorize the carrying on of such trade, business, occupation, or profession only at the place designated unless he shall be granted permission by the council to move his place of business, trade, occupation, or profession to another place in the city, and in that event such permission shall be endorsed by the clerk on such license. The same license shall be charged and collected for all portions of the city or town.

1346. License for two or more businesses.—

Ib., § 10a.

Any person, firm, or corporation dealing in two or more of the articles, or engaged in two or more of the businesses, vocations, occupations, or professions for which a license is or may be required, shall take out and pay for a license for each line of business, vocation, occupation, or profession.

1347. Games, amusements; license for.—

Ib., § 10a.

The council shall have power to license, and tax, permit and regulate, restrain or prohibit all kinds of amusements and all athletic games, and the use of public parks and places of resort within the corporate limits and within the police jurisdiction of the several cities or towns, and shall prescribe the places and the manner and the method of regulating and conducting all such amusements and games, and fix the time when all or any of the places referred to may be opened or shall be closed, not inconsistent with the laws of the state.

MUNICIPAL CORPORATIONS.

Schools and Education.

ARTICLE 25.

SCHOOLS AND EDUCATION. 1348-1358.

SECTION.

1348. Schools, regulation of.
 1349. Education, board of.
 1350. Election of officers of board of education.
 1351. School property, how held.
 1352. Appropriation for schools.
 1353. Schools, control of.
 1354. Superintendent of schools.

SECTION.

1355. Board of education of towns having over one thousand and less than six thousand inhabitants.
 1356. School districts.
 1357. Municipalities exempt from school law.
 1358. Libraries.

Aug. 13,
 1907, p.
 796, § 168.

1348. Schools; regulation of.—Cities and towns shall have power to establish, maintain, and regulate public schools in which children from seven to twenty-one years of age, bona fide residents of and living within the corporate limits of such city or town, shall be entitled to admission; and non-residents shall be admitted on such terms as the board of education may prescribe, and separate schools shall be provided for children of African descent.

Ib., § 169.

1349. Education; board of.—In cities having a population of six thousand or more, the management and control of the public schools therein shall be vested in a board of education, which shall be composed of five members, who shall serve without compensation, and shall be qualified electors and residents of the respective cities, and who shall not be members of the city council. At the first regular meeting of the council in April, or as soon thereafter as may be practicable, at any regular meeting, the council shall elect the members of the board of education, whose terms of office respectively shall be one, two, three, four, and five years. Annually thereafter at the first regular meeting in April, or as soon thereafter as may be practicable, at a regular meeting, the council shall elect a member, whose term of office shall be five years, to succeed the member of the board of education whose term expires that year. In the event of a vacancy in the membership of the board, by resignation or otherwise, the fact shall be reported to the city council by the board, and the council shall elect a person to fill such vacancy for the unexpired term.

Ib., § 170.

1350. Election of officers of board of education.—At its first regular meeting in May, after the election of said board, or as soon thereafter as practicable, and annually thereafter, the board shall elect from its membership a president and vice-president. It shall also elect a clerk, who need not be a member of the board, and may fix his compensation. The vice-president shall perform the duties of the president only when the president may be absent from the city or unable to per-

form his duties. The board may fill any vacancy occurring from any cause in any of the offices mentioned in this section.

1351. School property; how held.—All property, real and personal and mixed, now held or hereafter acquired for school purposes, shall be held in trust for the use of the public schools of the city or town, and no sale or purchase of real estate shall be made by any other than the city council of such city or town. The board of education shall have full and exclusive power, within the limits of the revenue appropriated for such purpose or accruing to the use of the public schools, to purchase fixtures, furniture, apparatus, libraries, fuel, and supplies for the use of the schools, and to sell the same, and to make expenditures for the maintenance and repair of the school ground, buildings, and other property, to establish and build new schools, when sites have been provided by the city council, and to superintend the erection thereof, to make additions, alterations, and repairs to the buildings and other property devoted to school uses, and to make necessary and proper regulations, contracts, and agreements in relation to such matters. All such contracts shall inure to the benefit of the public schools, and any suit at law or in equity, brought upon them, and for the recovery and protection of money and property belonging to and used by the public schools, or for damages, shall be brought by and in the name of the city.

Aug. 13,
1907, p.
790, § 171.

1352. Appropriation for schools.—Each year the board of education shall make an estimate in detail of the amount of money required for the proper support and maintenance of the public schools during the next ensuing scholastic year, which shall be submitted to the city council, and the city council shall make annual appropriations for the support and maintenance of the schools that it may deem necessary and proper in view of all other needs of the government of the city and of the expected revenues from taxes and otherwise. Money so appropriated, and all money received from the school fund of the state, poll taxes, the sale of school property, the sale of bonds for school purposes, and from any other source whatever for school purposes, shall be held by the treasurer of the city as a special fund or funds for school purposes, and it shall be paid out by him on warrants drawn by the clerk of the board and countersigned by the president, or vice-president, when acting as president of the board of education, and by the clerk of the city, and not otherwise, and no warrant shall be drawn unless in pursuance of a resolution of the board of education entered upon its minutes.

Ib., § 172.

1353. Schools; control of.—The board of education shall have full control of the public schools of the city or town. It shall have power to establish schools, to discontinue any

Ib., § 172.

school, to consolidate schools, to prescribe courses of study and books to be used, not in conflict with the general law in reference to text-books, to divide the city into school divisions as circumstances may require, to employ teachers and a superintendent of schools and necessary employes and to fix their salaries and wages, to establish and maintain high schools and prescribe rules for the expulsion of pupils, to expel any pupil guilty of gross disobedience or willful misconduct, to dismiss any superintendent, teacher, or employe, when in its opinion the interests of the schools require it, and generally to have and exercise all rights, powers, and authority required for the management of a system of public schools. It shall be the duty of the board of education to examine, or cause to be examined, all persons, at times and places fixed by it, offering as candidates for teacher's places, and when found qualified to give them certificates of qualification gratuitously, to grant diplomas without charge to graduates of the high schools, to visit all schools as often as once a month, to establish and uniformly enforce proper rules and regulations, to inquire into the performance of their duties by the teachers and superintendent, and into the progress of the pupils, and to prepare and submit to the city council an annual report showing the operation of the schools for the past scholastic year, and suggesting their needs for the future.

Aug. 13.
1907, p.
790, § 174.

1354. Superintendent of schools.—It shall be the duty of the board of education to elect a superintendent of schools, fix his term of office and salary, and prescribe his powers and duties. The superintendent shall be required to give bond for the faithful performance of his duties, which shall be payable to said city, in a sum to be fixed by the board, not less than three thousand dollars, with surety or sureties to be approved by the president of the board, the bond to be filed with the clerk of the city or town. The superintendent may be elected clerk of the board of education, and if so elected his bond shall stand as security for the faithful performance of his duties as clerk, as well as superintendent, however conditioned. It shall be the duty of the clerk of the board of education to keep full and correct detail account of all money received and expended. The superintendent shall attend to the taking of the school census, which shall be taken in the months of April of each odd year, and it shall be his duty to make complete and accurate reports of the same to the superintendent of education of the state.

ib., § 175.

1355. Board of education of towns having over one thousand and less than six thousand inhabitants.—Towns having a population of more than one thousand and cities having a population of less than six thousand shall have a board of

education to consist of five members, which shall be elected by the council at its first meeting in April, 1909, or as soon thereafter as may be practicable, and every two years thereafter. The members of said board shall be qualified electors and shall serve without compensation. As soon after the election as practicable, said board shall organize by electing one of their number president, and shall also elect one of their number secretary of said board. And said board shall have all the powers and be vested with all the authority in relation to public schools as boards of education in cities of six thousand or more population.

In towns of one thousand population or less the management and control of the public schools therein shall be vested in a board of education to consist of five members, who shall have all the powers and be vested with all the authority in relation to such public schools as boards of education in cities. Said board of education shall be elected by the qualified electors of the town at the first regular municipal election held under the provisions of this chapter and biennially thereafter.

1356. School districts.—Each incorporated city or town, as a special school district, or embraced therein, shall receive its proportionate share of the public school revenue to be paid over by the state superintendent of education direct to the city superintendent of schools and by him paid over to the treasurer. Aug. 18.
1907, p.
790, § 170.

1357. Municipalities exempt from school law.—The provisions of this chapter relative to public school systems shall not apply to cities and towns in counties now having by law a combined city and county school system operated under a single board of education, or where the members of the board hold office for life. Ib., § 177.

Where by any provision of law any certain or definite percentage of the revenue of any city or town from licenses or taxes, either or both, is required to be used for the maintenance of its public schools, then such provisions shall be unaffected by this chapter and shall be and remain in full force and effect.

1358. Libraries.—Cities and towns shall have the right to establish and maintain or aid in establishing and maintaining public libraries, either separately or in connection with the public schools. Ib., § 178.

MUNICIPAL CORPORATIONS.

Public Improvements, Betterments, Power to Construct and Maintain.

ARTICLE 26.

PUBLIC IMPROVEMENTS, BETTERMENTS, POWER TO CONSTRUCT AND MAINTAIN.
1850-1420.

SECTION.

- 1359. General powers for such purposes.
- 1360. Definition and explanation of words, phrases, and terms used in this article.
- 1361. Ordinance or resolution describing improvement desired; ordering the drawing of plans, specifications, etc.
- 1362. Drawings, plans, specifications, etc., filed to await objections or remonstrances thereto.
- 1363. Publication of ordinance or resolution.
- 1364. Hearing of objection or protest; result and effect of.
- 1365. Cost of proposed improvements, how paid.
- 1366. Grade of street, sidewalk, etc., fixed and established.
- 1367. Notice, advertisement and letting of contract for public work.
- 1368. City engineer supervises work.
- 1369. Accepting or rejecting work under contract.
- 1370. Power to levy betterment taxes and assessments on abutting property for costs of improvements.
- 1371. Mode of levying and collecting such taxes or assessments for sewers, drainage, etc.
- 1372. Mode for intersection of streets, etc.
- 1373. For sidewalks, curbing, etc.
- 1374. Assessment as against street car or railroad tracks.
- 1375. Roll or list of owners, lots or parcels of property assessed against.
- 1376. "Assessment book for local improvement" prepared and kept.
- 1377. Notice or publication as to assessment books.
- 1378. Hearing of objections to assessments.
- 1379. Contents and sufficiency of notice or publication as to assessments.

SECTION.

- 1380. Defects or errors in notices, effect of.
- 1381. Written objections or defenses to assessments, filing of.
- 1382. Hearing of objections, protests, etc., against assessment.
- 1383. Witnesses, subpoenas for examination of on hearing.
- 1384. Fixing amount of assessment constitutes liens; superiority of such liens.
- 1385. Liens, transfer and assignment of.
- 1386. Chancery court may enforce liens.
- 1387. Tax liens, relation of, and effect of as to assessments.
- 1388. Several assessment liens on same property; effect of.
- 1389. Appeal from assessments provided for.
- 1390. Appeal bonds, condition and effect of.
- 1391. Appeal, preferred cases.
- 1392. Transcript for appeal, contents of.
- 1393. Transcript prima facie evidence.
- 1394. Cause may be tried on the record, judgments rendered.
- 1395. Judgments rendered on appeal for amount of property chargeable.
- 1396. Appeal to supreme court by property owner provided for. appeal bond in such cases.
- 1397. Appeal to supreme court heard on record.
- 1398. Judgment on affirmance.
- 1399. Appeal by municipality to supreme court.
- 1400. Execution on judgment and sale.
- 1401. Payment of assessments, how and when made.
- 1402. Failure to pay an installment, matures subsequent ones.
- 1403. Payment of assessment made at any time before sale.
- 1404. Cost of sale charged against land.
- 1405. Deed to purchasers at sale.
- 1406. Redemption of property after sale; costs and charges of.

Public Improvements, Betterments, Power to Construct and Maintain.

SECTION.

- 1407. Mistakes or errors in sale; effect of.
- 1408. Municipal bonds for public improvements.
- 1409. Power to borrow money for public improvements.
- 1410. Bond for public improvements; denomination and condition of.
- 1411. Bonds by city of less than six thousand inhabitants.
- 1412. Proceeds of bond sale; how applied.
- 1413. Account of funds from assessments required to be kept.

SECTION.

- 1414. Officers collecting assessments liable on official bonds for funds.
- 1415. Deposit of funds arising from assessments; how funds drawn out.
- 1416. Redemption of bonds.
- 1417. Refunding to parties proportionate amount of excess.
- 1418. Limitation for presenting claim.
- 1419. Mode of improvements not exclusive of other modes.
- 1420. Lands purchased or condemned by municipality for public improvements.

1359. General powers for such purposes.—All cities and towns in this state may design or cause to be designed, contract for, and to execute or cause to be executed the construction or improvement, or the reconstruction or reimprovement, of any street, avenue, alley, highway, or other public place, of any sidewalk thereon, by filling, grading, leveling, graveling, slagging, macadamizing, curbing, guttering, paving, or otherwise improving the same, in such manner and with such material as the council of such city or town may prescribe; to construct or reconstruct any drain or drains, sanitary or storm water sewer or sewers; sanitary and storm water sewer systems, either combined or separate; to lay out, establish, and define storm water and sanitary districts, or either, and to provide for the drainage thereof, and to build or construct or rebuild or reconstruct outlets for such sewer or sewer systems, either within or without the corporate limits, and to cause the cost and expense of all or any part of the aforesaid works and improvements to be assessed against the property abutting on said street, avenue, alley, highway, or other public place so improved or drained by said sewer or sewers to the extent of the increased value of such property by reason of the special benefits derived from such improvements.

Mar. 5, 1907, p. 325, § 1; Aug. 18, 1907, p. 790, § 122.

1360. Definition and explanation of words, phrases, and terms used in this article.—The council as herein used, mayor and aldermen, or other governing body shall mean also a board of public works, where such a city has such a board. Wherever the city has, in addition to its council or other governing body, a board of public works charged with the care, maintenance, and improvements of streets, storm sewers, and drains, then and in that event the powers herein declared shall be divided between said board of public works and said council or other governing body, in harmony with the general system of government of said city in reference to the division of authority and duty between the board of public works on the one hand and the council on the other.

Ib., § 2; Ib., § 123.

Public Improvements, Betterments, Power to Construct and Maintain.

Mar. 5,
1907, p.
285, § 3;
Aug. 13,
1907, p.
790, § 124.

1361. Ordinance or resolution describing improvement desired, ordering the drawing of plans, specifications, etc.—

When the council of any city or town shall determine to construct or improve any street, avenue, alley, sidewalk, highway, or other public place, or to make any other improvement or undertake any work authorized, the cost of which, or any part thereof, it is proposed to assess against the property abutting on or drained by said improvement, it shall adopt an ordinance or resolution to that effect, describing the nature and extent of the work, the general character of the materials to be used, and the location and terminal points thereof, and the streets, avenues, alleys, or other highways, or parts thereof, and shall direct that full details, drawings, plans, specifications, and surveys of said work and estimates be prepared by the city engineer, or such other person as may be designated in such ordinance or resolution, or the said council may adopt plans for such work already prepared. When the contemplated improvement is a storm water or sanitary sewer or sewers, or a storm water or sanitary sewer system, such resolution or ordinance shall establish or describe the territory or area to be drained by such sewer or sewers, or sewer system, and define the same by naming the streets, avenues, alleys, or other lines by which the same is bounded.

Ib., § 4;
Ib., § 125.

1362. Drawings, plans, specifications, etc., filed to await objections or remonstrances thereto.—Such details, drawings, plans, specifications, surveys, and estimates shall when completed be placed on file in the office of city engineer, or other officer designated in such ordinance or resolution, where property owners who may be affected by such improvement may see and examine the same, and the said ordinance or resolution shall appoint a time when the council will meet, which will be not less than two weeks after the date of the first publication of said ordinance or resolution, to hear any objections or remonstrances that may be made to said improvement, the manner of making the same, or the character of the material to be used.

Ib.

1363. Publication of ordinance or resolution.—Said ordinance or resolution must be published once a week for two consecutive weeks in some newspaper published in said city or town, and if no newspaper is published therein, it may be published either in a newspaper of general circulation, or by posting for two weeks in three public places in such city or town.

Ib., § 5;
Ib., § 125.

1364. Hearing of objection or protest; result and effect of.—At said meeting, or at a place and time to which the same may be adjourned, all persons whose property may be affected by the proposed improvement may appear in person or by

Public Improvements, Betterments, Power to Construct and Maintain.

attorney, or by petition, and object or protest against said improvement, the material to be used, and the manner of making the same, and said council shall consider such objection and protests, if any, and may confirm, amend, modify, or rescind the original ordinance or resolution. But if objection to the proposed improvement be made by a majority in frontage of the property owners to be affected thereby, when the proposed improvement is to be assessed against the property fronting or abutting any street, avenue, or alley, or by a majority in area of the property owners when the proposed improvement is to be assessed against the property comprising a sewerage, drainage, or improvement district, the improvement shall not take place, unless ordered by a two-thirds vote of those elected to the council.

1365. Cost of proposed improvements; how paid.—The council may pay out of the general funds of the city or town, or any special fund that may be provided for the purpose, such portion of the cost of the proposed improvement as they see proper. The cost of any improvement contemplated by this article shall include the expense of the preliminary and other surveys, and the inspection and superintendence of such work, printing and publishing the notices, resolutions, and ordinances required, including notice of assessment, the cost of construction, preparing bonds, interest on bonds when the bonds have been issued in anticipation of the collection of the assessment, and any other expense necessary for the completion of such improvement.

Mar. 5,
1907, p.
286, § 6;
Aug. 18,
1907, p.
790, § 120.

1366. Grade of street, sidewalk, etc., fixed and established.—Before the passage of the final resolution or ordinance to make any improvement on any street, avenue, alley, or sidewalk, the cost of which, or any part thereof, is to be assessed to the abutting property, if the grade of such street, avenue, alley, or sidewalk has not been established, or if said improvement necessitates a change of grade, the council shall by ordinance fix and establish the grade of such street, avenue, alley, or sidewalk about to be improved, and also the grade of the curb on each side thereof.

Ib., § 6;
Ib., § 127.

1367. Notice, advertisement, and letting of contract for public work.—If the council shall finally order the making of the proposed improvement or improvements, notice shall be given asking for bids for such work, which notice shall be given in such manner and for such time as may be prescribed by the council, and the said municipal authorities may, if a satisfactory bid be received, let the contract to make such improvement or improvements, and if no satisfactory bid is received the council may advertise for other bids, or may let the contract to a satisfactory bidder without further adver-

Ib., § 7;
Ib., § 128.

Public Improvements, Betterments, Power to Construct and Maintain.

tisement, or the city or town may itself construct such improvement, or furnish labor or material for the same; and the said municipal authorities may by order impose further conditions upon bidders with regards to bonds and surety for the faithful completion of such work, according to contract, or for any other purpose mentioned in the specifications.

Mar. 5,
1907, p.
285, § 8;
Aug. 13,
1907, p.
790, § 129.

1368. City engineer supervises work.—All work done or improvements made under the provisions of this article shall be done under the supervision of the city engineer or other superintendent appointed for that purpose by the council of such city or town.

Ib. **1369. Accepting or rejecting work under contract.**—In case of any controversy or dispute the council shall be invested with sole and exclusive power to determine whether any improvement constructed under the provisions of this article has been completed in accordance with the terms of the contract therefor, and to accept or reject such work on the part of the municipality.

Ib., § 9;
Ib., § 130.

1370. Power to levy betterment taxes and assessments on abutting property for costs of improvements.—If said improvement be finally ordered and constructed, the council shall have power and authority, after completion and acceptance thereof, to assess the cost of constructing said improvement, or any part thereof, upon and against the property abutting on any street, avenue, alley, highway, or other public place so improved or drained by such sewer or sewers to the extent of the increased value of such property by reason of the special benefits derived from such improvements.

Ib. **1371. Mode of levying and collecting such taxes or assessments for sewers, drainage, etc.**—When said improvement consists of a sanitary or storm water sewer or sewers, or a sanitary or storm water sewer system, the cost of any part thereof may be assessed against all the lots or parcels of land lying within the district drained, but the assessment shall not exceed the increased value of such property by reason of the specified benefits derived from the improvement.

Ib. **1372. Mode for intersection of streets, etc.**—Where a street, avenue, or other highway intersections are improved, the cost of improving the intersection, or any part thereof, may be assessed against the lots or parcels of land abutting on said street, avenue, alley, or other highway so intersecting, for a half block in each direction.

Ib. **1373. For sidewalks, curbing, etc.**—In case of sidewalk improvements, including curbing, the costs, or any part thereof, or the improvement of the street or avenue corner, may be assessed against the lots abutting on or nearest said improve-

Public Improvements, Betterments, Power to Construct and Maintain.

ment, and the entire cost or any part thereof of the improvement at the intersection of any alley with a street or avenue, or other highway, may be assessed in fair proportion against the respective lots or parcels of land abutting or cornering on the alley at such intersection; provided, however, that in no case shall the assessment against any lot or parcel of land be greater than the increased value of such lots or parcels of land by reason of the special benefits to be derived from such improvement.

1374. Assessment as against street car or railroad tracks.—

If there be a street, electric, or other railroad track or tracks on any street or highway improved or re-improved under this article the cost of such improvement, except storm water and sanitary sewers, between the tracks and the rails of the tracks, and in case there are two or more tracks, the space between such tracks, and eighteen inches on each side of the tracks, including switches and turnouts, shall be paid by the owner of the railroad, and shall be assessed against and form a lien on said railroad, and the property connected therewith, and in the event that storm water sewers are constructed which drain the streets or avenues or rights of way on which is a street, electric, or other railroad, whether the same be a continued or separate system, there shall be assessed against such railroad a fair and just proportion of the cost of construction of such sewer, to be determined by the mayor and aldermen, and such assessment shall be a lien like other assessments and may be collected in like manner, and the council may require the owners of such street railroad or other railroad to prepare or construct its tracks for the receipt of such paving or other improvements in a manner satisfactory to the council.

Mar. 5,
1907, p.
235, § 9;
Aug. 18,
1907, p.
790, § 130.

1375. Roll or list of owners; lots or parcels of property assessed against.—When any improvement made under the provisions of this article is contemplated, the mayor shall cause to be prepared a roll or list showing the names of the property owners, and opposite each name a description of each lot or parcel of land proposed to be assessed for such improvement, belonging to such owner or owners, and the amount proposed to be assessed against each lot or parcel of land.

ib., § 10;
ib., § 131.

1376. "Assessment book for local improvement" prepared and kept.—Such list shall be entered in a well bound book, prepared for that purpose, and shall contain appropriate columns in which payments may be credited, and the lien of the assessment satisfied by the proper officers of the municipality; said book shall be known as the "assessment book for local improvement," and shall be a public record, and no error

ib.

Public Improvements, Betterments, Power to Construct and Maintain.

or mistake in regard to the name of the owner shall be held to invalidate any assessment, and it shall be sufficient if the name of the last owner as shown by the records in the office of the probate judge of the county is shown in said book.

Mar. 5,
1907, p.
236, § 10;
Aug. 18,
1907, p.
790, § 131.

1377. Notice or publication as to assessment books.—After the completion of the proper entries of each improvement said book shall be delivered to the city or town clerk, who shall thereupon give notice by publication one time in some newspaper published in said municipality, or of general circulation therein, that said assessment roll or list has been delivered to him, and is open for inspection in the office of the person authorized to make collection of said assessments.

Ib.

1378. Hearing of objections to assessments.—At a time and place therein mentioned, not less than twenty days from the date of publication, the council will meet to hear and determine any objections or defense that may be filed to such assessment or the amount thereof.

Ib.

1379. Contents and sufficiency of notice or publication as to assessments.—Said notice shall also state the general character of the improvement, the terminal points thereof, and the streets, avenues, alleys, or other highways or portions thereof along which the improvement has been constructed, and if the improvement made consists of a sanitary or storm water sewer or sanitary or storm water sewer system, said notice shall also describe the territory or area drained by said sewer or sewers, by naming the streets, avenues, alleys, or other highways, or other lines by which said district is bounded.

Ib.

1380. Defects or errors in notices; effect of.—If there be a defect in said notice or proceedings, before or subsequent to said notice, with respect to one or more interested persons, the same shall not affect such notice or proceedings except in so far as it may touch the interest or property of such person, or persons, and shall not avail any other person concerned therein. In case of such defect, supplementary proceedings of the same general character as those hereinbefore prescribed may be had in order to supply such defect.

Ib., § 11;
Ib., § 132.

1381. Written objections or defenses to assessments; filing of.—The owners of any real estate or any interest therein, which it is proposed to assess for the cost, or any part thereof, of said improvement, may appear at any time on or before the date named in said notice, or at said meeting, and file in writing with the clerk or in his office any objections or defense to the proposed assessment against said property, or to the amount thereof, and persons who do not file objections in writing or protests against such assessment shall be held to have consented to the same.

Public Improvements, Betterments, Power to Construct and Maintain.

1382. Hearing of objections, protests, etc., against assessment.—The council shall hear and pass upon all objections and protests against the proposed assessments, under such reasonable rules and regulations as they may adopt.

Mar. 5,
1907, p.
236, § 11;
Aug. 13,
1907, p.
790, § 132.

1383. Witnesses; subpoenas for examination of on hearing.—The council, by the mayor or clerk or other executive officer, may issue subpoenas for witnesses to appear before the council or any committee thereof, and to administer oaths to the witnesses to be examined.

Ib.

1384. Fixing amount of assessment constitutes liens; superiority of such liens.—At such meeting or any adjourned meeting the council shall proceed by order or resolution to fix the amount of the assessment against each lot or tract of land described and included in said assessment roll, and all such assessments, from the date of such order or resolution, shall be and constitute a lien on the respective lots or parcels of land upon which they are levied superior to all other liens, except those of the state or county for taxes.

Ib.

1385. Liens; transfer and assignment of.—The council of such city or town may transfer and assign such liens to the contractor or contractors who made said improvements, or to any other person.

Ib.

1386. Chancery court may enforce liens.—In addition to the method hereinafter provided for the collection of such assessments, the chancery court, or other court of like jurisdiction, may enforce said liens, and in all suits which may be brought to enforce said liens, either by the council or by its assigns, the complainant shall recover the amount of such assessment, with interest thereon and the cost of such proceedings.

Ib.

1387. Tax liens; relation of and effect of as to assessments.—The enforcement by the state, county, city, or town of its lien for taxes on any lot upon which has been levied an assessment for any improvement authorized by this article, shall not operate to discharge or in any manner affect the lien of the municipality for said assessment, but a purchaser at a tax sale by the state, county, city, or town of any lots or parcels of lands upon which an assessment has been levied, shall take the same subject to such assessment.

Ib.

1388. Several assessment liens on same property; effect of.—Nor shall the enforcement by the municipality of its lien for an assessment levied for one improvement by the sale of the property operate to discharge or in any way affect the lien of any other assessment for a different improvement on the same property, but the purchaser at such sale shall take subject to the lien of all other assessments, and the right of the municipality to enforce the same.

Ib.

Public Improvements, Betterments, Power to Construct and Maintain.

Mar. 5,
1907, p.
236, § 12;
Aug. 13,
1907, p.
790, § 183.

1389. Appeal from assessments provided for.—Any person aggrieved by the decision of the council in making any assessment may, within twenty days thereafter, appeal to the circuit court, or any other court of like jurisdiction, upon executing a bond in double the amount of the probable cost of the appeal.

rb. **1390. Appeal bonds; condition and effect of.**—The amount of such bond shall be fixed and the sureties thereon shall be approved by the mayor, and the said bond shall be conditioned to prosecute said appeal to effect and pay the city or town any judgment that the city or circuit or other court may render, and all damages that any person may suffer by such appeal.

rb. **1391. Appeal; preferred cases.**—Said appeal shall be docketed in said court, and shall be a preferred case therein.

rb. **1392. Transcript for appeal; contents of.**—Upon the filing with and the approval of the appeal bond by the mayor, the clerk, upon notice thereof, shall immediately send to the clerk of the circuit court, or other court to which the appeal may be taken, a transcript of all the proceedings of the council relating to such assessment, so far as the same concerns the property of such appellant; such transcript shall contain a description of the property of such party or parties, the same to be described as accurately as may be according to the map of the city or town in common use, if there be such map; the name of the owner or owners of such property and the amount of the assessment.

rb. **1393. Transcript prima facie evidence.**—Upon hearing such appeal, the introduction of such transcript and papers shall be prima facie evidence of the correctness of such assessment, and that said property and persons are justly indebted to the city or town for the amount of the said assessment.

rb. **1394. Cause may be tried on the record; judgments rendered.**—The said cause may be tried on the record without other pleadings, and the court shall hear all the objections of the property owner or owners to said assessment and the amount thereof; and shall determine whether or not such assessment exceeds the increased value of such property by reason of the special benefits derived from the improvement, and shall render judgment accordingly.

rb. **1395. Judgment rendered on appeal for amount of property chargeable.**—If on the hearing of such appeal it shall appear that by reason of any technical irregularity or defect in the proceedings the assessment has not been properly made against the lot or parcel of land sought to be charged, the court may, nevertheless, on application of the city or town,

Public Improvements, Betterments, Power to Construct and Maintain.

upon satisfactory proof that expense has been incurred which is a proper charge against the lot or land in question, render judgment for the amount properly chargeable against said lot or land; but in such case the court shall make such order for the payment of the costs as it may deem proper.

1396. Appeal to supreme court by property owner provided for; appeal bond in such cases.—An appeal may be taken to the supreme court of Alabama by any person interested in said property, from the decree rendered by the said court within thirty days from the date of such judgment, upon giving bond for costs of appeal, or if supersedeas be desired, upon giving further bond in such sum as the judge of said court may prescribe, payable to the city or town, with sufficient sureties, to be approved by the clerk of said court, conditioned to pay such judgment or perform such judgment as the supreme court may render in the premises, and all such costs and damages as the city or town may have sustained if the judgment is affirmed. Mar. 5,
1907, p.
235, § 12;
Aug. 13,
1907, p.
790, § 123.

1397. Appeal to supreme court heard on record.—Such appeal shall be heard upon the record and bill of exceptions reserved by the party taking such appeal, setting out such of the evidence as may be necessary to a fair presentation of the case. Ib.

1398. Judgment on affirmance.—In the event a supersedeas bond has been given and the said case is affirmed by the supreme court, it shall add to the judgment rendered by the lower court interest thereon and ten per cent damages for delay. Ib.

1399. Appeal by municipality to supreme court.—The city or town may also appeal from any decree of the said circuit court, or other court, without giving bond; and all appeals taken pursuant to this article shall be preferred cases in the supreme court. Ib.

1400. Execution on judgment and sale.—In the event the final judgment is rendered in favor of the city or town, execution may be issued thereon against the principal and sureties on the appeal bond, unless the amount of the judgment and decree is paid within five days from the date of such judgment, and the court shall, by further order, decree that the property assessed be sold to satisfy such judgment. Nothing contained in this article shall operate to release or discharge the lien on such property, unless the assessment is fully paid. Ib.

1401. Payment of assessments; how and when made.—The council, in ordering any local improvement the cost of which, or any part thereof, is to be assessed against the property abutting on any street, avenue, alley, highway, or other public Ib. § 13;
Ib., § 134.

Public Improvements, Betterments, Power to Construct and Maintain.

place so improved, or area drained by such sewer or sewers, may provide that the same shall be paid in cash within thirty days after the final assessment, provided the cost of such improvement does not exceed one thousand dollars, but if the total cost of said improvement is greater than such sum, any property owner may, at his election, to be expressed by notifying the city official charged with the duty of collecting such assessments in writing within thirty days after the assessment is made final, pay the said assessment in ten equal annual installments, which shall bear interest at not exceeding eight per cent per annum, payable annually. Any person may pay the whole assessment against any lot or parcel of land within thirty days from the time the assessment is made; and may at any installment period pay the assessment in full by paying the full amount of the installments, together with all accrued interest thereon, and upon the payment of an additional sum equal to six months' interest at eight per cent per annum on the amount of said assessment so paid before maturity as a penalty; should the property owner desire to pay off the deferred installments between the dates on which they are due, he shall pay interest on the same until the succeeding installment period, and together with the penalty above described. The first installment shall be payable within thirty days after the assessment is made final, and all assessments or installments thereof shall be payable at the office of the clerk, tax collector, or treasurer of the city or town, as the council may prescribe, and all assessments of installments thereof shall bear interest at not exceeding eight per cent per annum after the expiration of thirty days from the date on which the same is made final; which interest shall be due and payable at the time and place the assessment or installment is due and payable. In all cases where the property owner does not elect to pay on installments, or having elected to pay in installments, fails to pay the first installment in thirty days from the date of the assessment, he shall be held to have waived the right to pay in installments, and the entire assessment shall at the expiration of said thirty days become due and payable.

1402. Failure to pay as installment matures; subsequent ones.—If the property owner who has not elected to pay his installments fails to pay his assessment within thirty days, or having elected to pay in installments, fails to pay the first installment in thirty days from the date of the assessment, or makes default in the payment of any annual installment or the interest thereon, the whole of such assessment shall immediately become due and payable, and the officer designated by the council to collect such assessments shall proceed to

MAR. 5,
1907, p.
236, § 14;
Aug. 13,
1907, p.
790, § 185.

Public Improvements, Betterments, Power to Construct and Maintain.

sell the property against which the assessment is made to the highest bidder for cash; but he shall first give notice by publication once a week for three consecutive weeks in some newspaper published in the city or town of general circulation therein, of the date and time of such sale, and the purpose for which the same is made, together with a description of the property to be sold.

1403. Payment of assessment made at any time before sale. Mar. 5, 1907, p. 235, § 14; Aug. 13, 1907, p. 790, § 126.
 —Any property owner, notwithstanding his default, may pay the assessment, with interest and all costs, if tendered before a sale of the property.

1404. Cost of sale charged against land.—The cost of such advertisement and sale shall constitute a charge against the property to be sold and shall be retained out of the proceeds of the sale. 1b.

1405. Deed to purchasers at sale.—The officer making such sale shall execute a deed to the purchaser, which shall convey all the right, title, and interest which the party against whose property the assessment was made, had, or held in said property at the date of making such assessment or on the date of making such sale. Any surplus arising from said sale shall be paid into the city treasury, to be kept as a separate fund by the treasurer for the owner upon the responsibility of his official bond. The council may by its agent purchase real estate sold as provided under this article, and in the event of such purchase the deed for the same shall be made to the town or city. 1b.

1406. Redemption of property after sale; costs and charges of.—Such property may be redeemed by the owner, or his assigns, or other person authorized to redeem property sold for taxes by the State of Alabama, within two years from the date of the sale, by paying to the purchaser or the city treasurer for him the amount for which the property was sold, with interest thereon at the rate of fifteen per cent per annum from the date of sale, together with a fee of two dollars for the expense of a conveyance. 1b.

1407. Mistakes or errors in sale; effect of.—No mistake in said publication in the description of the property, or in the name of the owner, shall vitiate the assessment or the lien, and if, for any reason, the sale made by the city or town be ineffectual to pass title, it shall operate as an assignment of the lien, and upon the request of the purchaser, supplementary proceedings of the same general character as herein required may be had to correct the errors in said proceedings for his benefit, or the lien so assigned to him may be enforced in equity. 1b.

Public Improvements, Betterments, Power to Construct and Maintain.

Mar. 5,
1907, p.
225, § 15;
Aug. 13,
1907, p.
790, § 136.

1408. Municipal bonds for public improvements.—For the purpose of providing funds to pay the cost of any improvement authorized to be made under the provisions of this article, the council of any city or town or other municipality may, before the contract is let for such improvement, issue bonds within the limitations prescribed by the constitution in such amount as may be necessary, not to exceed the total cost of the improvement as estimated by the engineer or other person appointed by the city or town to make the preliminary surveys and estimates for such improvement.

Ib

1409. Power to borrow money for public improvements.—The council may borrow money on the faith and credit of the city or town, executing the note of the city or town therefor, and pledging as security for such loan the proceeds of the proposed assessments to be thereafter made as provided in this article, and such sum or sums so borrowed the mayor and aldermen may advance for the construction of such improvements, and after the completion thereof, and upon the expiration of thirty days after the assessment for the cost of such improvements shall have been made final, the council may then issue and sell bonds for such amount as may be necessary, after deducting the amount paid by property owners, to pay the cost of said improvements, including such amounts as may have been borrowed for the purpose, and all interest and other expenses incurred for the construction of said improvement.

Ib., § 16;
Ib., § 137.

1410. Bonds for public improvements; denomination and condition of.—Said bonds shall be negotiable and payable to bearer, and may be payable in lawful money, or gold coin of the United States, as the council may prescribe, and by the ordinance providing for the issue of such bonds full provision shall be made for their form and character; said bonds shall have coupons attached to represent the interest thereon, and the council may provide that such bonds may be changed from coupon to registered bonds, or vice versa. Such bonds shall be such denomination as the council may direct, not to exceed one thousand dollars, and not less than fifty dollars each. They shall bear interest at not to exceed eight per cent, payable annually or semi-annually, at such place or places as may be designated therein. They shall be issued under the corporate seal of the city or town, and shall be signed by the mayor and the treasurer thereof, and shall be disposed of at not less than par, but the council may provide in the ordinance or resolution ordering the construction of any improvement, or by subsequent order, that the bonds to be thereafter issued to pay for such improvement may, upon the completion and acceptance of such work, be issued to the contractor at not less than par, in payment or part payment of the contract price

Public Improvements, Betterments, Power to Construct and Maintain of such work. The said bonds shall be payable ten years from their date, but any bond or bonds so issued and sold shall, at the option of the city or town, be payable at any interest period, but in the event the city or town should elect to pay off any such bond or bonds before maturity, it shall pay as a bonus to the holder thereof a sum equal to one-fourth the annual interest thereon, and the city or town shall give public notice of its intention to redeem said bond or bonds, describing the same by number and series, by publication once a week for three consecutive weeks in a newspaper published in said city or town, or of general circulation therein.

1411. Bonds by city of less than six thousand inhabitants. Mar. 5, 1907, p. 286, § 17; as amended Aug. 14, 1907, p. 644, § 1.
 —Any city or town having a population of less than six thousand may, notwithstanding the amount or character of any bonded or other indebtedness, issue such bonds, but the same shall be a lien or charge only against the property improved and against the fund collected from the assessments levied against the property improved, and shall not be the general obligation of the city or town, nor shall such city or town be in any way liable to the holders of such bonds in case of failure to collect the same. Such last described bonds when issued shall convey and transfer to the owners thereof all right, title, and interest in and to the assessment, and the lien upon the respective lots or parcels of ground herein provided for, which liens and assessments shall stand as security for such bonds and coupons until they are paid, with full power in the holder of such bonds or coupons to enforce the collection thereof by foreclosure in any court of competent jurisdiction. Provided, that the first bond or coupon holder who institutes a foreclosure suit in any court against any property assessed, shall only be entitled to have the proceeds of said suit applied pro rata to the payment of his own bonds and the bonds held by others, so that not more than one foreclosure suit shall be brought against any one lot or parcel of land.

1412. Proceeds of bond sale; how applied.—The proceeds from the sale of bonds authorized to be issued by this article shall be applied only to the payment of the cost of improvement designated in the ordinance providing for their issue, but should there be any surplus from any bond issue over and above such cost, it may be applied to the cost of other improvements, the cost of which shall be assessed and collected as provided for in this article. Ib., § 18; Aug. 14, 1907, p. 644, § 2.

1413. Account of funds from assessments required to be kept.—It shall be the duty of the city official charged with the duty of collecting assessments to keep an accurate account of all funds arising from all assessments for public improvements and to carefully and accurately keep a separate account Aug. 14, 1907, p. 644, § 2.

Public Improvements, Betterments, Power to Construct and Maintain.

of the fund arising from the collection of assessments under each particular improvement ordinance, and no proceeds arising from assessments levied for one improvement shall be diverted to the payment of the bonds or coupons issued for any other improvement or to the payment of any other indebtedness of the city, or for any other purposes whatsoever, except as herein expressly provided.

Aug. 14,
1907, p.
644, § 2.

1414. Officers collecting assessments liable on official bonds for funds.—The city official charged with the duty of collecting assessments shall be liable on his official bond to any holder of the bonds authorized to be issued under this article for any loss or injury to such bond holder caused by the diversion by said officer of any fund or part thereof, to the payment of any bonds or coupons, or indebtedness of the city or town, other than the bonds and interest coupons entitled and indebtedness herein authorized to be paid out of said fund, or by the use or misappropriation by said officer of any part of the funds out of which said bonds are required and contemplated in this article to be paid for any other purpose than provided for in this article; or for the benefit of the city or town or others. And all members of the governing body or bodies of the city or town who shall, by their vote, or in any other manner, cause, aid, or encourage any such diversion, use or misappropriation of the funds out of which the bond holders are entitled to be paid, for any other purpose than that authorized and required in this article, whereby loss or injury to the bond holders or any of them is caused, shall be jointly and severally liable to such bond holders injured, to the extent of such loss or injury.

1b.

1415. Deposit of funds arising from assessments; how funds drawn out.—All proceeds arising from the collection of assessments levied under the provisions of this article shall, as soon as collected, be deposited, and shall be kept by the city official charged with the duty of collecting assessments in some bank or banks paying interest on time deposits, to be designated by the mayor and aldermen. Said collections shall not be deposited with the general funds of the city or town, but shall constitute a separate deposit to the account of the "Public Bond Improvement Fund," and shall be drawn out on check or order, and the mayor and aldermen may pass all proper ordinances and regulations requiring countersignature of the said checks and orders.

1b.

1416. Redemption of bonds.—At any time when the amount of any particular fund shall, with its accumulations, equal the amount of outstanding bonds and accrued interest entitled to payment out of such fund, the mayor and aldermen shall have authority to redeem any and all such bonds that may be pre-

Public Improvements, Betterments, Power to Construct and Maintain.

sent for redemption at such time thereafter as the holders thereof may desire to present the same for redemption. The excess, if any, when all the bonds and coupons are redeemed, and the interest thereon paid, and not in excess of the total cost and expense of the improvement to be converted into the general revenue fund of the city.

1417. Refunding to parties proportionate amount of excess. Aug. 14, 1907, p. 644, § 2.
—In the event the amount collected from the assessment under any improvement ordinance shall exceed the total cost and expense of the improvement, there shall be refunded to each of the parties affected by said assessment a proportionate amount of the excess upon demand made therefor by said parties within twelve months after maturity or payment of the bonds authorized by this article.

1418. Limitation for presenting claim.—If such claims be not Ib. presented within twelve months from the date of the maturity or payment of the bonds, they shall be forever barred, and such amounts shall be converted to the general revenue fund of the city or town.

1419. Mode of improvements not exclusive of other modes. Mar. 15, 1907, p. 285, § 19; Aug. 18, 1907, p. 790, § 140.
—Nothing in this article shall be so construed as to take from the council of any city or town, or in any manner affect the power and authority to compel the property owners by penal ordinance or otherwise, to repair the sidewalks in front of their property in such manner, and with such material, as may be directed under the supervision of the engineer or other officer or agent of the city or town, or to cause such repairs to be made at the expense of the property owner, such expense to be collected as in the case of taxes.

1420. Lands purchased or condemned by municipality for public improvements.—Whenever, in the judgment of the council, it may be necessary or expedient for the carrying out and full exercise of the powers hereby granted, such council may acquire by purchase or condemnation the necessary lands, or rights or easements, or interests therein, thereunder, and thereover, and may proceed to condemn the same in the manner provided in this article or by the general laws of this state governing the taking of lands or the acquiring of an interest therein, for the uses for which private property may be taken; in which case such proceedings shall be governed in every respect by the general laws of the state pertaining thereto. Ib., § 20; Ib., § 141.

MUNICIPAL CORPORATIONS.
Municipal Bonds for Public Utilities.

ARTICLE 27.

MUNICIPAL BONDS FOR PUBLIC UTILITIES. 1421-1435.

SECTION.

- 1421. Municipal bonds; elections for.
- 1422. Notice of election for bond issue.
- 1423. Form of ballot.
- 1424. Officers of election.
- 1425. Expenses of election; how paid.
- 1426. Canvassing board.
- 1427. Contest of such elections.
- 1428. Record of election.

SECTION.

- 1429. Authority to issue municipal bonds.
- 1430. Limit of municipal indebtedness.
- 1431. Municipal bonds exempt from taxation.
- 1432. Character and denomination of municipal bonds.
- 1433. Official seal on bonds.
- 1434. Coupons of municipal bonds.
- 1435. Validity of municipal bonds.

Feb. 25,
1908, p.
59, § 1.

1421. Municipal bonds; elections for.—The mayor and common council, mayor and aldermen, or other governing body, of any city or town in this state, may order elections to be held in such city or town for the purpose of the qualified electors of such municipality voting upon and deciding the question as to whether or not the bonds of such municipality shall be issued for the purpose of purchasing or constructing public buildings, sewers, streets, alleys, bridges, and public school houses and buildings, to purchase waterworks and light plants, or to construct the same, or for such other purposes as are authorized by law, whenever such governing board deems it necessary; but no second election under this article shall be held within two years of an election theretofore held for the same purpose, unless it be to authorize the issue of bonds to rebuild public buildings or other public utilities or bridges, destroyed since the issue of the order of such first election.

Act not violative of § 45 of the Constitution, does not contain two subjects.—*Blakey v. Mont.*, City of, 144 Ala. 481 (39 So. 745).

Ib., § 2.

1422. Notice of election for bond issue.—Notice of such election shall be given for thirty days by publication in a newspaper published in the municipality in which such election is to be held, once a week for three successive weeks, which notice shall state the purpose for which the election is to be held, and the time and place of holding same, the amount of the proposed bond issue, the rate of interest the bonds are to bear, the time for which they are to run, and the purpose for which the bonds are to be issued, and such notice shall be signed by the mayor or other chief executive of such municipality in which such election is to be held, and if no newspaper is published therein, such notice must be posted in five public places in said municipality at least thirty days before the time of holding said election.

Municipal Bonds for Public Utilities.

1423. Form of ballots.—The ballot used at such elections Feb. 25, 1903, p. 59, § 8. must be prepared by the mayor or other chief executive officer, and shall contain the words, "For _____ bond issue," and "Against _____ bond issue" (the character of the bonds to be shown in the blank space), and the voter shall indicate his choice by placing a cross mark before or after the one or the other.

1424. Officers of election.—The mayor and aldermen, or Ib., § 4. other governing body, of such municipality in which an election under this article is to be held, shall appoint three managers and one returning officer for each voting precinct in such municipality to conduct said election, and in appointing such managers, as far as practicable, at least one manager at each voting precinct shall be for bond issue and one against bond issue. The chief executive officer of such municipality shall notify the managers and returning officers of such appointments, and shall deliver the boxes and ballots to the managers at the several voting precincts in the municipality.

1425. Expenses of election; how paid.—All expenses for Ib., § 5. holding such election shall be paid out of the treasury of the municipality in which the same is held, and the managers, clerks, and returning officers shall be entitled to the same compensation as managers, clerks, and returning officers at other municipal elections.

1426. Canvassing board.—The mayor and aldermen, or Ib., § 6. other governing board, of the municipality in which an election is held under this article, shall constitute a board to canvass the returns and declare the result of such election, and it shall meet at the usual place of meeting on the day after the date of holding such election, and canvass the returns and declare the result thereof.

1427. Contest of such election.—Any election held under the Ib., § 7. (r.c.c.) provisions of this article can be contested by any qualified elector of city or town, by executing a bond with sufficient security, to be approved by the judge of probate of the county for the payment of the costs of the contest. Notice of the contest shall be served on the mayor of the city or town in which such election was held, upon the execution of a bond for costs, with sufficient security, to be approved by the judge of probate of the county, the city or town shall be made contestee, and an answer shall be filed in the name of such city or town. All provisions and incidents of the election law of this state relating to contest of an election of justice of the peace shall be observed as to the contest of an election held hereunder, but no contest of an election can be instituted after the expiration of ten days from the date of the canvass of the returns of said election.

Feb. 25,
1903, p.
59, § 8.

1428. Record of election.—The record of the result of the election held under the provisions of this article, as returned by the board of canvassers, shall be recorded in the minutes of the proceedings of such municipality in which the same is held, and when so recorded the record shall be conclusive evidence of the matters therein stated, and the validity of such election, unless contested as provided in the preceding section.

Id., § 9.

1429. Authority to issue municipal bonds.—If at an election held under and according to the provisions of this article, a majority of the qualified electors, voting at such election of the municipality in which the election is held, vote "For bond issue," the mayor and aldermen or other governing body of the municipality in which such election is held shall issue the bonds of such municipality in the amount and for the purposes mentioned in the notice of said election.

Id., § 10;
Const.,
§ 226.

1430. Limit of municipal indebtedness.—No city, town, or other municipal corporation having a population of less than six thousand, except as hereafter provided, shall become indebted in an amount including present indebtedness, exceeding five per cent of the assessed value of the property therein, except for the construction or purchase of waterworks, gas, or electric lighting plants, or sewerage, or for the improvement of streets, for which purposes an additional indebtedness, not exceeding three per cent, may be created; but this limitation shall not affect any debt now authorized by law to be created, nor any temporary loans to be paid within one year, made in the anticipation of the collection of taxes, not exceeding one-fourth of the annual revenues of such city or town. All towns or cities having a population of six thousand or more, also Gadsden, Ensley, Decatur, and New Decatur, are authorized to become indebted in an amount, including present indebtedness, not exceeding seven per cent of the assessed valuation of the property therein; but there shall not be included in the limitation of the indebtedness of such last described cities and towns the following class of indebtedness, to wit: Temporary loans to be paid within one year, made in the anticipation of the collection of taxes, and not exceeding one-fourth of the general revenues, bonds or other obligations already issued or which may hereafter be issued, for the purpose of acquiring, providing, or constructing schoolhouses, waterworks, and sewers; and the obligations incurred and bonds issued for street and sidewalk improvements, where the cost of the same, in whole or in part, is to be assessed against the property abutting said improvements; but the proceeds of all obligations issued as provided in this article, in excess of seven per cent, shall not be used for any purpose other than that for which said obligations were issued. Nothing contained in this

Bonded Indebtedness, Settlement and Refunding of.

article shall prevent the funding or refunding of existing indebtedness. This section shall not apply to the cities of Sheffield and Tusculmbia.

1431. Municipal bonds exempt from taxation.—All bonds and interest coupons attached to the same, issued under the authority of this article, shall be exempt from state, county, and municipal taxation, and the same shall have all the properties and protection of commercial paper. Feb. 25, 1908, p. 50, § 11.

1432. Character and denomination of municipal bonds.—The denominations of the bonds, the time for which the same shall run, the place of payment, and rate of interest to be paid on the same, shall be fixed by the governing body of the municipality issuing the same, but no bonds issued under the provisions of this article shall bear a greater rate of interest than five per cent per annum, and the same shall not be sold for less than face value. Ib., § 12.

1433. Official seal on bonds.—All bonds issued under the authority of this article shall be signed by the chief executive officer, and countersigned by the treasurer of the municipality issuing the same, and the official seal of the municipality shall be impressed upon or affixed to the same. Ib., § 13.

1434. Coupons of municipal bonds.—All bonds so issued shall have attached to the same interest coupons, which shall be signed by the chief executive officer and treasurer of the municipality issuing the same, but their signature may be printed or lithographed facsimile upon said coupons. Ib., § 14.

1435. Validity of municipal bonds.—No irregularity in the proceedings to authorize the issue of bonds under this article, nor the omission or neglect of any officer charged with executing any of the duties imposed by this article, shall affect the validity of any bonds issued under the authority conferred by this article. Ib., § 15.

ARTICLE 28.

BONDED INDEBTEDNESS, SETTLEMENT AND REFUNDING OF. 1436-1438.

SECTION.

- 1436. Bonded indebtedness adjusted, refunded, etc.
- 1437. Indebtedness secured by mortgage, etc.

SECTION.

- 1438. Refunding debts or bonds subrogated to rights of stockholders.

1436. Bonded indebtedness adjusted, refunded, etc.—The municipal authorities of any city or town in this state, which may have outstanding a bonded indebtedness of any kind, may settle, adjust, and refund the same, upon the best terms they can obtain, and in order to carry into effect the settlement, adjustment, and refunding of such bonded indebtedness, the Aug. 13, 1907, p. 790, § 196.

Bonded Indebtedness, Settlement and Refunding of.

municipal authorities of any such corporations may issue bonds for such an amount as may be necessary to pay the indebtedness of such corporation, which it is proposed to settle, adjust, and refund, and for no other purposes whatsoever, in such sum and form, and to run for such length of time, not exceeding thirty years, and to bear such rate of interest, not to exceed five per centum per annum, payable annually, or semi-annually, at such place as the municipal authorities may designate, and may levy and collect in accordance with the constitution and in the manner provided by law for general municipal taxes, such tax as may be necessary upon the real and personal property, and all other subjects of taxation, in such corporation, to pay the interest and principal of such bonds, provided, that the tax levied hereunder in any one year shall not exceed the constitutional limitation on the rate of taxation applicable to such city or town; and provided, further, that said bonds shall not be sold at less than par, except upon a vote in favor thereof of three-fourths of the members elected to the council or the governing body of the municipality, which vote shall be taken by yeas and nays and entered of record, and unless the written assent of the mayor is filed and spread upon the minutes of the governing body.

Aug. 18,
1907, p.
700, § 196.

1437. Indebtedness secured by mortgage, etc.—Where the debt which it is proposed to settle, adjust, or refund, is secured in whole or in part by a lien, mortgage, or deed of trust, upon any property belonging to the municipality, such municipality is authorized and empowered to make a new lien, mortgage, or deed of trust upon such property to secure the payment of such refunding bonds.

Ib., § 197.

1438. Refunding debts or bonds, subrogated to rights of stockholders.—Any city or town issuing refunding bonds hereunder is hereby subrogated and substituted to all of the rights and remedies prescribed in any local or special law, heretofore enacted for the protection of its stockholders, or conferred upon it or any trustee, and it may sue for and recover any taxes as other municipal taxes are collected or otherwise, or any moneys or property which such municipality or such trustee might have recovered under any special or local law heretofore enacted; provided, however, that the governing body of such municipality may, by appropriate ordinances or resolutions, compromise and make settlement of such delinquent taxes as may have accrued under any special or local law, upon such terms, and in such manner as may be deemed proper and to the best interests of such municipality, and all taxes levied for the year 1907, and prior thereto, by any and all officers of any municipality, acting under any local or special law authorizing the collection of taxes to pay interest on bonds

Eminent Domain, Condemnation; Rights and Powers as to.

to be refunded hereunder, are hereby in all things ratified and confirmed.

ARTICLE 29.

EMINENT DOMAIN, CONDEMNATION; RIGHTS AND POWERS AS TO. 1439-1442.

SECTION.

1439. Condemnation, eminent domain, rights.

1440. Rights of way; water rights acquired by mayor.

SECTION.

1441. Condemnation of right of way; ad quod damnum proceedings.

1442. Appeal from condemnation of water rights.

1439. Condemnation; eminent domain; rights.—Whenever, Aug. 13, 1907, p. 790, § 165. in the judgment of the council of a city or town, it may be necessary or expedient for the carrying out and full exercise of any power granted by this chapter, the said town or city shall have full power and authority to acquire by purchase the necessary lands, or rights, easements, or interests therein, thereunder, or thereover, or for the purposes for which private property may be acquired by condemnation, may proceed to condemn the same in the manner provided by this chapter, or by the general laws of this state governing the taking of lands or the acquiring of interests therein for the uses for which private property may be taken, and such proceedings shall be governed in every respect by the general laws of this state pertaining thereto, or by the provisions of the subject contained in this chapter, when the same are followed.

1440. Rights of way; water rights acquired by mayor.— Ib., § 165. Whenever, in the opinion of the council, a right of way through the lands of others (whether in or out of the city or town) is necessary for obtaining a water supply or for sewerage or drainage purposes, and whenever the council may determine to change the grade of any street, sidewalk, or public place, and whenever any property is needed for any city or town purpose, the council shall authorize the mayor to attempt to acquire such right by purchase from the owner or owners thereof, and in case of failure, to acquire the same by condemnation.

1441. Condemnation of right of way; ad quod damnum proceedings.— Ib. Whenever the proprietor or proprietors, or any of them, of any of the land necessary for any of the purposes aforesaid, or necessary for opening new streets or widening old streets, and the mayor, cannot agree on a price of said lands, or cannot agree as to the amount to be paid for changing the grade of any street, sidewalk, or public place, and whenever the proprietor or proprietors thereof shall be an infant, non compos mentis, married woman, nonresident, or persons

Eminent Domain, Condemnation; Rights and Powers as to.

unknown, then the mayor shall apply to the clerk of the circuit or other court of like jurisdiction of the county, for a writ *ad quod damnum*, to be directed to the sheriff of the county, commanding him to summon three freeholders of the county, to appear before the sheriff on a day named, not less than two days from the date of the writ, and to proceed under his direction to assess a value of the lands of such proprietor for the use thereof, or the damage or injury which may be done to any property by the change in the grade of any street, sidewalk, or public place named in the application for the writ, and in the writ which shall describe the lands required for the use of the city or town, the use for which the said lands are desired, the grade intended (in case of change desired in grade of any street, sidewalk, or public place), and the name of the owners, respectively, if known, and the said persons thus selected shall be sworn by the sheriff to faithfully perform their duty under such writ, and after viewing the premises, render a verdict, which verdict shall be endorsed on the writ by them, and shall assess the damages to each proprietor severally. The sheriff shall thereupon return the writ so endorsed to the clerk of such court, and the verdict so rendered shall be entered on the records of the court of the next term thereof after its return, unless an appeal shall have been taken, in the manner hereinafter prescribed. The same jury may render a verdict upon all matters contained in the same application. On the return of the verdict and the payment to the clerk of the damages assessed, the land so assessed shall inure to the public use, for the use specified in the application, and the council may take the property condemned or proceed to change the grade of any such street, sidewalk, or public place, unless the council or some proprietor or proprietors shall, within thirty days, take an appeal to the circuit court or other court of like jurisdiction of the county, by filing a written notice of appeal, a copy of which shall be served on the opposite party or his attorney, and on such appeal being taken, the assessment of damages shall be tried in such court *de novo*, and upon such trial either party may demand a jury. On the suing out of a writ, the mayor shall pay to the clerk of such court three dollars for his fees, two dollars per day for each juror on the preliminary assessment, and three dollars for the sheriff, to be paid by a warrant drawn by the city or town clerk on the order of the mayor. And when any owner of lands, which lands or the use thereof are desired for the city or town, or for any of the purposes mentioned in this section, is an infant, non compos mentis, married woman, nonresident, or unknown, the clerk of such court must give notice of the filing of such application by publishing for three successive weeks in some newspaper pub-

Foreign Municipal Corporations of Adjoining States; Powers to Acquire Water Rights.

lished in said city or town before he issues his writ to the sheriff; and all other cases, five days' notice of the filing of the writ shall be given by the clerk of the court to the owners of the property, to be served by the sheriff personally or by leaving a copy thereof at the owner's residence or place of business, and the mayor of such city or town must deposit with the clerk the advertising fee, to be paid by warrant drawn by the city or town clerk on an order of the mayor, as other warrants are drawn.

1442. Appeal from condemnation of water rights.—When an appeal is taken from any preliminary assessment, as herein provided for, such appeal shall not deprive the municipal corporation obtaining the judgment of condemnation from a right of entry for any or all of the purposes herein provided, the amount of damages assessed shall have been paid into court, in money, and a bond shall have been given in not less than double the amount of damages assessed, with good and sufficient sureties, to be approved by the clerk of the court to which the appeal is taken, conditioned to pay such damages as the owner of the property may sustain.

Aug. 13,
1907,
790, § 187.

ARTICLE 30.

FOREIGN MUNICIPAL CORPORATIONS OF ADJOINING STATES; POWERS TO ACQUIRE WATER RIGHTS. 1443-1449.

SECTION.

1443. Foreign municipalities which may acquire water rights.
1444. Rights and powers of domestic corporations as to water supplies conferred upon certain foreign corporations.
1445. Power of foreign municipality to contract for water supply.

SECTION.

1446. Property of foreign municipalities exempt from levy, etc., as domestic municipalities.
1447. Jurisdiction as to territory acquired.
1448. Property subject to taxation.
1449. Consent of county commissioners necessary.

1443. Foreign municipalities which may acquire water rights.—Any city or town located in any state adjoining the State of Alabama, which is duly incorporated by the laws of the state wherein such town or city is located, may acquire, own, take, and dispose of any property, real or personal, in this state, that may be necessary or appropriate for affording such town or city, and the inhabitants thereof, an adequate water supply to be drawn from a source located in this state.

Aug. 7,
1907, p.
588, § 1.

1444. Rights and powers of domestic corporations as to water supplies conferred upon certain foreign corporations.—All the rights and powers that are incident to, and conferred by law upon, municipal corporations of this state, to purchase, hold, take, and condemn property or easements in property

ib., § 2.

Foreign Municipal Corporations of Adjoining States; Powers to Acquire Water Rights.

needful for the location, maintenance, security, and operation of a complete system of waterworks, including the ownership of such water shed, or sheds, right of way, and easements in property, and the construction of such dams, canals, raceways, and reservoirs, and the laying of such pipes, conduits, and mains as is necessary and proper to render a public water supply available for use, are hereby conferred upon such foreign municipal corporations as may wish to procure a public water supply from this state, in accordance with the provisions of this article.

Aug. 7,
1907, p.
588, § 3.

1445. Power of foreign municipality to contract for water supply.—Such foreign municipal corporations in connection with the development of a public water supply from this state, shall have the right, power, and authority to contract with any person or persons, municipal corporation, or private corporation, located in this state for a supply of water, upon such terms as may be mutually satisfactory, not repugnant to the constitution and laws of this state, in the same manner and to the same extent as an individual or private corporation may contract for such water supply.

Ib., § 4.

1446. Property of foreign municipalities exempt from levy, etc., as domestic municipalities.—The property of any and all foreign municipal corporations located in this state, in pursuance of the provisions of this article, shall be exempt from levy, or seizure by attachment, or other legal process or proceedings, in like manner as the property of municipal corporations located in and existing under the laws of this state are exempt.

Ib.

1447. Jurisdiction as to territory acquired.—Nothing in this article contained shall authorize any foreign municipality to exercise any jurisdiction over any territory acquired by it under this article, but the jurisdiction of the State of Alabama shall be in all things retained over such territory.

Ib.

1448. Property subject to taxation.—The property so acquired by any foreign municipality shall be subject to taxation in this state as the property of individuals and private corporations.

Ib.

1449. Consent of county commissioners necessary.—Before the power and authority conferred by this article may be exercised, the consent of the board of revenue or court of county commissioners of the county in which the property lies, and if the said property lies within the limits of any incorporated municipality, then the consent of the governing authority of said incorporated municipality shall be first obtained.

ARTICLE 31.

PROVISIONS APPLICABLE TO ALL CITIES AND TOWNS. 1450-1460.

SECTION.

- 1450. Punishment of women.
- 1451. Appeals from judgments on conviction for a violation of municipal ordinances or by-laws.
- 1452. May regulate running of trains; may prohibit the standing thereof on or across streets.
- 1453. Magazine to be built.
- 1454. Mayor has power to close certain places in case of riot.
- 1455. Municipal special tax kept separate.
- 1456. Salary of mayor and other officers in cities of over twenty-five thousand population.

SECTION.

- 1457. Officers not employed by corporation holding municipal franchise.
- 1458. Power of municipal corporations to purchase school property and maintain public schools.
- 1459. Power of municipal corporations to pay bonds for waterworks, gas, and electric plants.
- 1460. Power of municipal corporations to care for sick or wounded persons.

1450. (2968) (1517) (1800) Punishment of women.—For a violation of an ordinance or by-law of a town or city, a woman must not be punished by subjecting her to work on the streets.

Original statutes incorporating passed from 1805 to 1823.—Toulmin's Digest, p. 773 et seq. (Dec. 3, 1873, p. 60.)

1451. (2969) (1518) Appeals from judgments of conviction for a violation of municipal ordinances or by-laws.—If not otherwise provided by law or the charter of a town or city, an appeal to the circuit court, or court of like jurisdiction, of the county will lie from a judgment of conviction for a violation of an ordinance or by-law of the town or city; such appeal to be taken within five days after the rendition of such judgment, and to be governed in all respects by the laws regulating appeals from judgments of justices of the peace in criminal cases.

(Feb. 13, 1879, p. 192.) Prosecution for violation of city ordinance, procedure on appeal; form and sufficiency of judgment.—Goldsmith v. Huntsville, 120 Ala. 182 (24 So. 509).

1452. (2970) (1519) (1801) May regulate running of trains; may prohibit the standing thereof on or across streets.—(r.c.c.) Towns or cities have power to regulate the running of railroad trains, or engines, or automobiles, and electric motors, within the corporate boundaries, and to prohibit the standing thereof on or across the streets or highways within the corporate boundaries.

(Mar. 2, 1875, p. 154, as amended Jan. 10, 1877, p. 112 §§ 1, 2.)

MUNICIPAL CORPORATIONS.

Provisions Applicable to All Cities and Towns.

1453. (2971) (1380) (1604) (1299) (1119) **Magazine to be built.**—It is the duty of the corporate authorities of every city or town corporate within the state to provide a suitable fire-proof building without the limits of the town or city, for the storage of gunpowder or other explosive material, on such terms as the corporate authorities may prescribe.

(Feb. 28, 1889, p. 99.)

1454. (2972) **Mayor has power to close certain places in case of riot.**—Whenever any mob, riot, or tumult has occurred, or there is reasonable cause to apprehend an occurrence thereof in any city, town, or village, or in the vicinity thereof, the mayor shall have power to issue his proclamation ordering the closing of all barrooms, saloons, shops, or other places where the business of selling intoxicating liquors, arms, ammunition, dynamite, or other explosives, is carried on, and forbidding the selling, lending giving away, bartering, or otherwise disposing of any of such articles, until such time as, in his judgment, such occupation may be carried on without danger to the public peace and safety.

1455. (2973) (1520) **Municipal special tax kept separate.**—Unless otherwise provided by law or its charter, when a special tax is levied by a town or city for any purpose, the levy, collection, and disbursement thereof shall be separate in all respects from the levy, collection, and disbursement of general municipal taxes; and all moneys, books, receipts, vouchers, and warrants relating thereto shall be kept separate, and express on their face that they relate to the special tax, and state the object of the tax; but the same officers may act in the levy, assessment, collection, and disbursement of the general and special taxes, unless otherwise provided. If, after the purpose of the special tax is accomplished, there remains a balance over, it shall be transferred to the general fund of the corporation.

(Jan. 31, 1879, p. 16, § 6.) (This and the five preceding sections may be in part superseded by later statutes.)

1456. **Salary of mayor and other officers of cities of over twenty-five thousand population.**—The salaries of mayors in all cities in the state having over twenty-five thousand population, according to the next preceding federal census, shall not exceed the sum of five thousand dollars per annum, payable in monthly installments out of the treasury of the said cities, to be fixed by the city council or other governing bodies of said cities, and the salaries of all other officers of such cities, except aldermen and councilmen, shall be fixed by the city council or other governing body of such cities; but if there is a salary limit of such officers of such cities provided in the charter or laws governing the same, the same shall not be altered or

Mar. 7,
1907, p.
420, § 1.

Provisions Applicable to All Cities and Towns.

changed above such salary limit, except by a two-thirds vote of all the members elected to said city council or other governing body of such cities, and by and with the consent of the mayor.

1457. Officers not employed by corporation holding municipal franchise.—No officer of any municipality shall, during his term of office, be employed, professionally or otherwise, by any corporation holding or operating a franchise granted by the city or the state, involving the use of the streets of the municipality. Mar. 7,
1907, p.
420, § 1.

1458. Power of municipal corporations to purchase school property and maintain public schools.—All municipal corporations in this state may purchase school property, or purchase lots and erect school buildings thereon, for the use and benefit of the citizens of their respective towns or cities. For said purpose the town council or board of aldermen may levy a tax not exceeding one-fourth of one per cent, provided the city or town tax shall not exceed the constitutional limitation. The town council or board of aldermen may purchase school property, from time to time, for the maintenance and improvement of such school property and the maintenance of public schools therein, within the limits hereinbefore prescribed. Any purchase of school property under the power herein granted shall only be made by the majority vote of the town council or board of aldermen of such city or town, and approved by the mayor. Oct. 6,
1908, p.
398, § 1
to 4.

1459. Power of municipal corporations to pay bonds for waterworks, gas, and electric plants.—Any city or towns of the State of Alabama that may hereafter construct or purchase school buildings, a waterworks plant, gas plant, electric light plant, or other light and power plant, or extend or enlarge a waterworks plant, or light and power plant, then owned by such city or town, may, by its board of mayor and aldermen, or other governing body of such city or town, execute a mortgage on the school buildings, the waterworks plant, or light and power plant, purchased or constructed by such city or town, to secure the bonds, indebtedness, and interest on such bonds and indebtedness created in the purchase, construction, extension, or enlargement of such school buildings, waterworks plant, or light and power plant, such mortgage to be signed by the mayor, and countersigned by the clerk of said city or town or by such other person or persons as the mayor and aldermen, or the governing body of such city or town may direct by appropriate resolutions; provided, that if, in the judgment of said board of mayor and aldermen, or the governing body, of said town or city, it is desirable that such mortgage be executed before such school buildings or plant is constructed, and Ib., p.
402, § 1.

if it is so executed, for the purpose of providing money to construct such plant, the fact that such mortgage is executed before the construction of such buildings and plant shall not render such mortgage invalid.

Oct. 10,
1903, p.
411, § 1.

1460. Power of municipal corporations to care for sick or wounded persons.—The board of mayor and aldermen, or other governing power, of cities in this state, may make appropriations out of the revenues of their respective cities to aid in maintaining and taking care of the sick or wounded persons, who are unable to provide such maintenance and care for themselves in any hospital maintained in their respective cities, exclusively for the care of the sick or wounded within the limits of such cities.

CROSS REFERENCES.

MUNICIPAL CORPORATIONS (Political Code).....	1046-1460
MUNICIPAL CORPORATIONS; FOREIGN (Political Code).....	1443-1449
MURDER (Criminal Code).....	7084-7088
MUSICAL ENTERTAINMENT (Political Code).....	2361
MUTES (Political Code).....	1933-1953
MUTUAL AID ASSOCIATIONS (Civil Code).....	3564-3572
" (Criminal Code)	7424, 7425
MUTUAL INSURANCE COMPANIES (Civil Code).....	4597-4605
NAME (Civil Code).....	5201, 5202, 5368, 5419
NATIONAL FLAG (Political Code).....	2059
NATIONAL GUARD (Political Code)	929- 998
NAVIGABLE STREAMS (Political Code).....	128
" (Civil Code)	6143-6146
NAVIGATION (Civil Code).....	4901-4957
NAVIGATION AS TO WATERCOURSES (Civil Code).....	6143-6150
NAVIGATION COMPANIES (Civil Code).....	3481
NE EXEAT (Civil Code).....	3179, 3180, 3188
NEGLIGENCE (Civil Code).....	2484-2486, 3910-3912, 5473-5476
NEGLIGENCE AS TO MUNICIPALITIES (Political Code).....	1273, 1274
NEGOTIABLE INSTRUMENTS AND COMMERCIAL LAW (Civil Code)	4958-5149
NEGOTIABLE PAPER (Civil Code).....	5145 et seq.
NEGRO (Political Code)	2
" (Civil Code)	5487, 5488
NEWSPAPERS (Political Code).....	1660, 1661
" (Civil Code)	5181-5192
NEW TRIAL AND REHEARING (Civil Code).....	5371-5381
NEXT FRIEND (Civil Code).....	2476-2478
NEXT OF KIN (Civil Code).....	3754-3762
NIL DICIT (Civil Code).....	2963, 4656, 5356
NOLLE PROSEQUI (Criminal Code).....	7155-7156
NON-AGE, DISABILITY OF (Civil Code).....	4505-4511
NON COMPOS MENTIS (Political Code).....	1
NON EST FACTUM (Civil Code).....	3967, 3968
NON-NEGOTIABLE INSTRUMENTS (Civil Code)	5153-5161
NON-RESIDENTS (Civil Code).....	2556-2565, 2825-2829, 2930, 2934

NON-RESIDENTS; NOTICES (Civil Code).....5181-5192, 3101 et seq.
NONSUIT (Civil Code).....5353, 3017, 4055
NOTARIES PUBLIC (Civil Code).....5162-5180
NOTES AND BILLS (Civil Code).....4958-5161
NOT GUILTY (Civil Code)3842, 5383
NOTICES (Civil Code)5181-5192, 2830, 5352
NUISANCES (Civil Code).....5193-5198
 " (Criminal Code) 7426
NUMBER (Political Code).....1, 2060
NUNC PRO TUNC (Civil Code).....4139, 4144
NUNCUPATIVE WILL (Civil Code)6174-6180
OATH (Political Code).....1475-1482
 " (Civil Code) 4631
 " (Criminal Code)7296, 7273, 7284
OATS (Political Code)..... 2439
OBSCENE LANGUAGE (Criminal Code)..... 6217
OBSCENE PRINTS AND LITERATURE (Criminal Code).....7427-7429
OBSTRUCTING PROCESS (Criminal Code).....7708-7711
OBSTRUCTING WATERCOURSES (Criminal Code).....7863-7873
OBTAINING GOODS UNDER FALSE PRETENSE (Criminal Code)...
 6920 et seq.
ODD FELLOWS (Civil Code).....4562, 3571
OFFICE, REMOVAL FROM (Political Code)1556-1568

ms 4A
 10,69
 1,1091
 O 1811
 8061, 0
 89 2 824

0 100
 1 1001
 82 2 824

OFFICES AND OFFICERS.

Terms of Executive and Judicial Officers Defined; Installation.

CHAPTER 33.

OFFICES AND OFFICERS. 1461-1571.

- ARTICLE 1. TERMS OF EXECUTIVE AND JUDICIAL OFFICERS DEFINED; INSTALLATION. 1461-1466.
- ARTICLE 2. PERSONS INELIGIBLE TO OFFICE; RESIDENCE AND COMMISSION; FILLING VACANCIES. 1467-1474.
- ARTICLE 3. OATHS OF OFFICE. 1475-1482.
- ARTICLE 4. OFFICIAL BONDS. 1483-1506.
- ARTICLE 5. BONDS BY GUARANTEE COMPANIES. 1507-1524.
- ARTICLE 6. ADDITIONAL BONDS AND NEW SURETIES IN CERTAIN CASES. 1525-1539.
- ARTICLE 7. THE DISCHARGE OF SURETIES ON OFFICIAL BONDS IN CERTAIN CASES. 1540-1548.
- ARTICLE 8. BOOKS, PAPERS, PROPERTY AND MONEY OF PUBLIC OFFICERS DELIVERED TO SUCCESSOR. 1549-1555.
- ARTICLE 9. VACATING OFFICE, DEATH, RESIGNATION, INSANITY, REMOVAL. 1556-1568.
- ARTICLE 10. SALARIES OF OFFICERS; WHEN PAYABLE. 1569-1571.

ARTICLE 1.

TERMS OF EXECUTIVE AND JUDICIAL OFFICERS DEFINED; INSTALLATION.
1461-1466.

SECTION.

1461. Terms of governor and other executive officers.
1462. Terms of office of railroad commissioners.
1463. Terms of judicial officers.

SECTION.

1464. Terms of office of county officers.
1465. Terms of office of circuit solicitors.
1466. Terms of office of tax assessor and tax collector.

As amended, Const. 1901, § 116; Oct. 9, 1903, p. 438, § 26.

1461. (3052) (3053) Terms of governor and other executive officers.—The governor, lieutenant-governor, attorney-general, state auditor, secretary of state, state treasurer, superintendent of education, commissioner of agriculture and industries, shall hold their respective offices for the term of four years from the time of their installation in office, and until their successors shall be elected and qualified, such installation to take place on the first Monday after the second Tuesday in January next after their election.

Original statutes regulating public officers.—Toulmin's Digest, pp. 666 et seq. (Feb. 21, 1893, p. 1091, § 1.)

Oct. 9, 1908, p. 438, § 26.

1462. Terms of office of railroad commissioners.—The president of the railroad commission and two associate railroad commissioners shall hold office for the term of four years from the time of their installation in office and until their successors shall be elected and qualified, such installation to take place

Terms of Executive and Judicial Officers Defined; Installation.

on the first Monday after the second Tuesday in January next after their election.

1463. (3054) Terms of judicial officers.—The chief justice of the supreme court and associate justices of said court, supernumerary judge, circuit judges, chancellors, judges of probate courts, and clerks of the circuit court, and judges of inferior courts, when not otherwise provided for by law, shall hold their respective offices for the term of six years from the first Monday after the second Tuesday in January next after their election, and until their successors are elected and qualified.

As amended, Const. 1901, § 156; Oct. 10, 1906, p. 493, § 1.

(Feb. 21, 1893, p. 1091, § 3.) The general election law in connection with § 155 of the constitution, as to the election of probate judges and time of holding office held not to postpone commencement of the term of office of the probate judge elected in November, 1904.—*Prowell v. Hasty*, 142 Ala. 80 (39 So. 164.)

1464. (3055) Terms of office of county officers.—The sheriff, one coroner, county commissioners, or members of board of revenue or boards or courts of like jurisdiction, one county treasurer, one county superintendent of education, two justices of the peace, and one constable for each election precinct, shall hold their respective offices for the term of four years from the first Monday after the second Tuesday of January next after their election, and until their successors are elected and qualified.

Oct. 10, 1906, p. 450, § 27.

(*Clay's Digest*, p. 162, § 2.; Feb. 21, 1893, p. 1091, § 4.) When justice of the peace is de facto officer; when term of office begins and ends under new election law.—*Stephens v. Davis*, 39 So. 831. Legislature may create or abolish county precincts; effect of abolishing precinct is to terminate the office of the officers for such precinct.—*State v. Sawyer*, 139 Ala. 138 (36 So. 545). Purpose and effect of hold-over clause.—*City Council v. Hughes*, 65 Ala. 201; *Lane v. Kolb*, 92 Ala. 636 (9 So. 873).

1465. Terms of office of circuit solicitors.—Circuit solicitors shall hold office for the term of four years from the first Monday after the second Tuesday in January next after their election, and until their successors are elected and qualified.

Ib., p. 451, § 30.

1466. Terms of office of tax assessor and tax collector.—One tax assessor and one tax collector for every county shall be elected at the general election in 1908, and every four years thereafter, who shall hold office for the term of four years from the first Monday of August next after their election, and until their successors are elected and qualified.

Oct. 1, 1903, p. 870.

Persons Ineligible to Office; Residence and Commission; Filling Vacancies.

ARTICLE 2.

PERSONS INELIGIBLE TO OFFICE; RESIDENCE AND COMMISSION; FILLING VACANCIES. 1467-1474.

SECTION.

1467. Persons ineligible to office.
 1468. Residence of officers.
 1469. Commissioned officers.
 1470. Commission.
 1471. When commission issues to officers.

SECTION.

1472. Commission not necessary.
 1473. Acts of de facto officer valid.
 1474. Vacancies in state and county offices; how filled; term of office.

Const.
 1901, § 60.
 (r.c.c.)

1467. (3056) (241) (149) (144) (105) **Persons ineligible to office.**—The persons who are ineligible to, and disqualified for holding office under the authority of this state, are—

1. Those who are not qualified electors, except as otherwise expressly provided.

2. Those who have not been inhabitants of the state, county, district, or circuit, for the period required by the constitution and laws of the state.

3. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery, or any other crime punishable by imprisonment in the penitentiary, and those who are idiots or insane.

4. Those who have in this state, or in any of the United States, given, accepted, or knowingly carried a challenge to fight with deadly weapons.

5. Those against whom there is a judgment unpaid, for any moneys received by them in any official capacity, due to the United States, this state, or any county or municipality thereof.

6. Soldiers, seamen, or mariners in the regular army or navy of the United States.

7. No person holding an office of profit under the United States, shall, during his continuance in such office, hold any office of profit under this state; nor shall any person hold two offices of profit at one and the same time under this state, except notaries public.

Original statutes regulating public officers.—Toulmin's Digest, pp. 666 et seq. (Clay's Digest, p. 169, § 2.) Administrators, general or special, not officers within meaning of constitution or statute.—*Mitchell v. Nelson*, 49 Ala. 90. A police judge is an officer within the meaning of constitution and statutes.—*Montgomery v. State*, 107 Ala. 372 (18 So. 157). State printer is officer within meaning of statute.—*Ex parte Screws*, 49 Ala. 64. Solicitor of the county is officer within meaning of constitution and statutes.—*Diggs v. State*, 49 Ala. 326.

1468. (3057) (244) (152) (147) (108) **Residence of officers.**—All officers must reside in this state, and keep their offices in such places as are or may be designated by law.

Persons Ineligible to Office; Residence and Commission; Filling Vacancies.

1469. (3058) (245) (153) (148) (109) Commissioned officers. (r.c.c.)

—The judges of the several courts, the chancellors, the attorney-general, the solicitors, the secretary of state, the auditor, the state treasurer, the superintendent of education, the commissioner of agriculture and industries, state game and fish commissioner, the railroad commissioners, the tax commissioners, the clerk of the supreme court, the clerks of the city courts, the clerks of the circuit courts, the sheriffs, the tax assessors, the tax collectors, the county treasurers, the county commissioners, the justices of the peace, the constables and notaries public, before entering upon and exercising the duties of their respective offices, must obtain a commission.

(Dec. 6, 1880, p. 45.) Administrators, general or special, not officers within meaning of constitution or statute.—*Mitchell v. Nelson*, 49 Ala. 90. A police judge is an officer within the meaning of constitution and statutes.—*Montgomery v. State*, 107 Ala. 372 (18 So. 157). State printer is officer within meaning of statute.—*Ex parte Screws*, 49 Ala. 64. Solicitor of the county is officer within the constitution and statute.—*Diggs v. State*, 49 Ala. 326.

1470. (3059) (246) Commission.—The commission must issue in the name, and by the authority, of the State of Alabama, must be sealed with the great seal, and signed by the governor, and countersigned by the secretary of state, unless it be the commission of the secretary, which must be signed by the governor.

1471. (3060) (247) (296) When commission issues to officers.—No commissioned officer of this state, required by law to give bond, shall receive his commission until he has made his bond, and had the same properly approved and filed. In all other cases, commissions may issue, on the production of the certificate of election, to the person therein named.

(Mar. 3, 1875, p. 76, § 48.)

1472. Commission not necessary.—All county officers, and officers chosen for any portion or district of a county, shall be authorized to exercise the duties and functions of the office to which they are elected, after they shall have received certificates of their election, as provided by law, whether they have received their commissions or not; but such officers shall first give the bond, if any, required by law, and take the oath of office prescribed by the constitution.

1473. Acts of de facto officer valid.—The official acts of any person in possession of a public office, and exercising the functions thereof, shall be valid and binding as official acts, in regard to all persons interested or affected thereby, whether such person be lawfully entitled to hold office or not, and whether such person be lawfully qualified or not; but such person shall be liable to all penalties imposed by law for usurping

Oaths of Office.

or unlawfully holding office, or for exercising the functions thereof without lawful right, or without being qualified according to law.

1474. (3061) (248) (154) Vacancies in state and county offices; how filled; term of office.—Vacancies in all state and county offices are filled by appointment of the governor, except as otherwise provided; the appointees must be commissioned, and they shall hold their offices for the unexpired term, and until their successors are elected and qualified.

(Clay's Digest, p. 163, § 9; Nov. 25, 1868, p. 351.) Where elections are to be held in November of a given year, and appointment to such office is made in March of same year, the appointee holds office only until the election in November and until the person elected qualifies.—*Dowling v. White*, 116 Ala. 306 (23 So. 133).

ARTICLE 3.

OATHS OF OFFICE. 1475-1482.

SECTION.

- 1475. Dueling oath.
- 1476. Who may administer official oaths.
- 1477. What oaths of office filed with secretary of state.
- 1478. Oath of judge of probate; where filed.

SECTION.

- 1479. Filing of oaths of other officers.
- 1480. Oaths of deputies; how taken and filed.
- 1481. Oath of municipal officers.
- 1482. Oaths to be indorsed with the date of filing.

1475. (3062) (249) (155) (149) (110) Dueling oath.—In addition to the oath prescribed by the sixteenth article of the constitution, every public officer must swear that he has not, directly or indirectly, given, accepted, or knowingly carried a challenge, in writing or otherwise, to any person, to fight with deadly weapons, either in or out of this state, or aided or abetted in the same since he has been a citizen thereof; and that he will not, directly or indirectly, give, accept, or knowingly carry a challenge to any person, to fight with deadly weapons, either in or out of the state; or in any manner aid or abet the same during his continuance in office.

(Aikin's Digest, pp. 136, 137, §§ 16, 17.; Dec. 7, 1866, p. 144.) Original statutes regulating public officers.—*Toulmin's Digest*, p. 666 et seq. County administrators were not required to take dueling oath under old constitutions.—*Mitchell v. Nelson*, 49 Ala. 90. As to the constitutionality and policy of the dueling act, requiring attorneys to take such test oath, and as to whether it is consistent with free government, see *ex parte Dorsey*, 7 Port., 293.

1476. (3063) (250) (156) (150) (111) Who may administer official oaths.—In all cases in which it is not otherwise provided by law, the oaths of office may be administered by any officer authorized to administer an oath; must be written out and subscribed by the person taking the same, and be accompanied with the certificate of the officer administering such

Oaths of Office.

oaths, specifying the day and year on which the same were taken.

1477. (3064) (251) (157) (151) (112) **What oaths of office filed with secretary of state.**—Such oaths must, when taken by the governor, any judge of the supreme court, judge of the circuit court, chancellor, auditor, state treasurer, attorney-general, solicitor, or any other officer whose general duties are not limited to any one county, unless it is otherwise provided, be filed, with the certificate required by the preceding section, in the office of the secretary of state; and when taken by the secretary of state, must be filed, with such certificate, in the office of the state auditor.

(Clay's Digest, p. 163, § 13.)

1478. (3065) (252) (158) (152) (113) **Oath of judge of probate; where filed.**—Judges of probate must file their official oaths in the office of the clerk of the circuit court of their respective counties.

1479. (3066) (253) (159) (153) (114) **Filing of oaths of other officers.**—Judges of other inferior courts, and all other officers whose general duties are confined to a single county, must, unless otherwise provided, file such oaths and certificate in the office of the judge of probate of their respective counties. (r.o.c.)

The fact that deputy sheriff's oath was filed in the office of clerk of circuit court instead of judge of probate, does not affect the liability of sheriff.—*Mathis v. Carpenter*, 95 Ala. 156 (10 So. 341).

1480. (3067) (255) (161) (155) (116) **Oaths of deputies; how taken and filed.**—Whenever any officer is authorized or required to appoint a deputy, such deputy, before he proceeds to act, must take the oath prescribed by the constitution, which must be accompanied with the same certificate, filed in the same office, with the same indorsement thereon, as the oaths of his principal; but the provisions of this section do not apply to any deputy who may be employed in particular cases only.

Parol proof admissible to show appointment of deputy sheriff; a person may be de facto officer without taking oath of office.—*Pentecost v. State*, 107 Ala. 81 (18 So. 146). Failure of deputy clerk to take oath of office does not invalidate his acts; he is a de facto officer.—*Joseph v. Cawthorn*, 74 Ala. 413. Verbally authorizing person to execute process as deputy sheriff is not an appointment as deputy sheriff or constable.—*Foster v. State*, 47 Ala., 646.

1481. (3068) (256) (162) **Oath of municipal officers.**—The mayor and aldermen of the various cities or towns in this state shall take the oath of office prescribed in the constitution of the state, and none other. (r.o.c.)

(Mar. 4, 1876, p. 268.) That officer did not take oath before commencement of proceedings by quo warranto immaterial.—*Davidson v. Woodruff*, 68 Ala. 359.

Official Bonds.

1482. (3069) (254) (160) (154) (115) Oaths to be indorsed with the date of filing.—The officer in whose office such oaths are required to be filed, must indorse thereon the day and year on which the same were filed, which indorsement must be signed by him.

Liability of sureties on administrator's bond.—*Steele v. Tutwiler*, 68 Ala. 107.

ARTICLE 4.

OFFICIAL BONDS. 1483-1506.

SECTION.

- 1483. Official bonds; to whom payable; condition; sureties.
- 1484. Indorsed with date of approval.
- 1485. Improperly approving bond; penalty.
- 1486. Bonds not filed unless properly approved.
- 1487. Date of filing bond to be indorsed.
- 1488. Qualifications and sufficiency of sureties.
- 1489. Officers not sufficient sureties.
- 1490. Attorneys or solicitors not sufficient sureties.
- 1491. Bond a lien.
- 1492. By whom approved.
- 1493. Time of filing bonds with secretary of state and auditor.
- 1494. Time of filing in circuit clerk's office.

SECTION.

- 1495. Time of filing in office of judge of probate.
- 1496. In other cases, within thirty days.
- 1497. Official bonds to be recorded.
- 1498. Failure to file bond vacates office.
- 1499. Notice of failure to file bond must be given to the solicitor.
- 1500. Legal effect of official bond.
- 1501. Conditions of official bonds, etc.
- 1502. Bond not properly executed or approved; effect of.
- 1503. Informal bonds valid.
- 1504. Not discharged by single recovery.
- 1505. Conditional execution or delivery by sureties.
- 1506. Applies to offices hereafter established.

1483. (3070) (257) (163) (157) (118) Official bonds; to whom payable; condition; sureties.—The bond of each public officer, required by law to give bond, must, unless it is otherwise provided, be made payable to the State of Alabama, with such sureties as the approving officer is satisfied have the qualifications required by law, with condition, in all cases in which a different condition is not prescribed, faithfully to discharge the duties of such office during the time he continues therein, or discharges any of the duties thereof.

(Aikin's Digest, p. 387.) Original statutes regulating public officers.—*Toulmin's Digest*, pp. 666 et seq. Transcript of official bond as evidence.—*Burton v. Dangerfield*, 141 Ala. 285 (37 So. 350). Bond of tax collector; fact that bond was rejected by auditor no defense to surety.—*Bromberg v. Fidelity Co.*, 139 Ala. 338 (36 So. 622). Liability upon official bonds of county officers for misappropriation of public funds; fine and forfeiture funds, etc.—*Jackson Co. v. Derrick*, 117 Ala. 348 (23 So. 193); *Self v. Blount Co.*, 124 Ala. 191 (27 So. 554); *Herr v. Seymour*, 76 Ala. 273; *Harold v. Herrington*, 95 Ala. 395 (11 So. 131); *Sessions v. Boykin*, 78 Ala. 328; *State v. Coleman*, 73 Ala. 550. Tax collector's bond payable to state; official books of county treasurer and tax assessor as evidence.—*Dudley v. Chilton Co.*, 66 Ala. 593. Sheriff may

Official Bonds.

make more than one official bond.—*Johnson v. Caffey*, 59 Ala. 332. Who may sue for breach of official bonds.—*Morrow v. Wood*, 56 Ala. 1. Official bond of county superintendent of education condition; liability of surety.—*Morrow v. Wood*, 56 Ala. 1. Register in chancery; liability of sureties for money paid to register while acting in capacity of probate judge.—*McKee v. Griffin*, 66 Ala. 211. Tax collector bond; liability of sureties.—*Brewer v. King*, 63 Ala. 511 (see 56 Ala. 1). Legislature has plenary power as to the execution, sufficiency of sureties and extent of obligation of official bond; statutes as to such matters are remedial.—*Ex parte Buckley*, 53 Ala. 42. Officer who approves bond determines amount of penalty; effect of recommendation of grand jury as to bonds.—*Ex parte Plowman*, 53 Ala. 440. Bond does not increase liability of officer to civil suit nor make any dereliction actionable which was not before; it only makes the sureties liable for which the officer would be liable without bond.—*Irion v. Lewis*, 56 Ala. 191 (51 Ala. 364). It is of no consequence that what purports to be an official bond is conditioned otherwise than the statute requires.—*United States Fidelity Co. v. Union Trust Co.*, 141 Ala. 532 (38 So. 177). It is immaterial whether an official bond is in terms payable to the state or not; the law makes it such.—*U. S. Fid. Co. v. Union Trust Co.*, 142 Ala. 532 (38 So. 177).

1484. (3071) (258) (169) (158) (119) **Indorsed with date of approval.**—The approval of all official bonds shall be in writing indorsed on the bonds, and shall show the day and year on which the same were approved, and be signed by the approving officer.

1485. (3072) (259) (170) (159) (120) **Improperly approving bond; penalty.**—The bond of any public officer, which is not in the penalty, payable, and conditioned, and has not sureties having the qualifications required by law, must not be approved; and the officer approving a bond not conforming to the law in any or all of these respects, is guilty of a neglect of duty, and subjects himself and his sureties to an action by any person injured, and a recovery to the extent of such injury.

The statute was intended to afford protection to persons interested in the performance of official duties; it is remedial and must be construed to cure and remedy.—*McKissack v. McClendon*, 133 Ala. 558 (32 So. 486); *Sprowl v. Lawrence*, 33 Ala. 674.

1486. (3073) (260) (176) (165) (126) **Bonds not filed unless properly approved.**—No officer, with whom any official bond is required to be filed, must allow the same to be filed in his office unless the approval of the proper officer appears thereon, indorsed according to the provisions of the second preceding section.

1487. (3074) (261) (178) (168) (129) **Date of filing bond to be indorsed.**—Every officer, in whose office the official bond of any public officer is filed, must indorse on such bond the day and year when the same was filed, and sign his name to such indorsement.

1488. (3075) (262) (164, 166) **Qualifications and sufficiency of sureties.**—All sureties on official bonds must be residents

Official Bonds.

of the state, and the aggregate value of their property, real and personal, not exempt from debts and other liabilities, and in excess of their debts and liabilities, must equal the penalty of the bond; and such property must be within the state. If the duties of the office of the principal are limited to a single county, the sureties must be residents of that county, and their property must be therein situated.

(Mar. 17, 1875, p. 50, §§ 1, 3.) Bond not void because of non-residence of one or more sureties.—*State v. Flinn*, 77 Ala. 100. Surety habitually absent from state is insufficient surety.—*Ex parte Buckley*, 53 Ala., 42. Legislature has plenary power to fix qualifications of sureties and sufficiency of official bonds.—*Ex parte Plowman*, 53 Ala. 440.

(r.o.c.)

1489. (3076) (263) (165) Officers not sufficient sureties.—No officer of the United States required to give an official bond; no municipal officer required to give an official bond; no officer, state or county, required to give an official bond, must be deemed a sufficient surety on any bond taken under this article.

(Mar. 17, 1875, p. 50, § 2.)

1490. (3077) (264) Attorneys or solicitors not sufficient sureties.—A practicing attorney-at-law or solicitor in chancery must not be deemed a sufficient surety on the official bond of the judge of probate, or of the clerk of any court of record, or of the register of the court of chancery, or of any other officer of a court of record, or of the sheriff or deputy sheriff, or of the coroner, or of a justice of the peace, or of a notary public exercising the powers of a justice of the peace, or of any constable, general or special.

(Dec. 4, 1878, p. 163.)

1491. (3078) (265) (167) Bond a lien.—The bond of the judge of the probate court, of the county clerk, of the sheriff, of the clerk of the city or circuit court, of the tax assessor, of the tax collector, and of the county treasurer, is a lien upon the property of the principal from the date of its execution.

(Mar. 17, 1875, p. 50, § 4.) Equity alone has jurisdiction to enforce lien.—*Self v. Blount Co.*, 124 Ala. 191 (27 So. 554). Liability of principal and sureties to county for misappropriation of county funds by public officer.—*Jackson Co. v. Derrick*, 117 Ala. 348 (23 So. 193). Surety subrogated to lien of state.—*Randolph v. Brown*, 115 Ala. 677 (22 So. 524). Is lien upon all property of principal at date of execution, but is not retroactive.—*Randolph v. Billing*, 115 Ala. 682 (22 So. 468). Payment of debt by surety extinguishes lien; state or county cannot transfer lien without payment.—*Randolph v. Billing*, 115 Ala. 682 (22 So. 468). Surety no lien by succession or subrogation after payment of debt to state or county.—*Ib.* Court of equity alone can enforce lien or settle equity of conflicting interests of various sureties upon different bonds.—*Dallas Co. v. Timberlake*, 54 Ala. 403. Lien is not a mere creature of statute, but arises by contract.—*Ib.* Lien attaches to property acquired after execution of bond.—*Lott v. Mobile Co.*, 79 Ala. 69; *Baker v. Schuessler*, 85 Ala. 541 (5 So. 328). Lien is good against homestead.—*Schuess-*

Official Bonds.

ler v. Dudley, 80 Ala. 547 (2 So. 526); Callen v. Schuessler, 86 Ala. 527 (5 So. 795). Bill of county against county treasurer and tax collector; multifariousness of such bill.—Sumter Co. v. Mitchell, 85 Ala. 313 (4 So. 705). Subrogation of sureties to rights of liens of county; priority of county's lien; contribution between sureties.—Cummings v. May, 110 Ala. 479 (20 So. 307). Lien operates as a mortgage except that it cannot be enforced in a court of law; amount of default need not be ascertained for lien to attach.—Knighton v. Curry, 62 Ala. 404. Right and manner of surety to be subrogated to right of state.—Knighton v. Curry, 62 Ala. 404; Randolph v. Billing, 115 Ala. 682 (22 So. 468); Perrine v. Fireman's Co., 22 Ala. 576; Watts v. Eufaula Co., 76 Ala. 474. Bond, upon what right of subrogation depends.—Watts v. Eufaula Bank, 76 Ala. 474; Schuessler v. Dudley, 80 Ala. 547 (2 So. 526). Officer executing mortgage to indemnify sureties, as a waiver of right of subrogation.—Watts v. Eufaula Bank, 76 Ala. 474. Averments of bill, sufficiency of.—Lott v. Mobile Co., 79 Ala. 69.

1492. (3079) (266) (168) **By whom approved.**—The bond of the sheriff, of the clerk of the city or circuit court, of the tax assessor, of the tax collector, and of the county treasurer must be approved by the judge of probate of the county. The bond of the judge of probate, and of the judge of the county court, must be approved by the judge of the circuit court, or by the chancellor of the division in which such judge of probate or of the county court resides.

(Aikin's Digest, p. 101, §§ 12-14; Mar. 17, 1875, p. 50, § 5.) Approving bond formerly held ministerial act.—Ex parte Candee, 48 Ala. 386; overruled and departed from in subsequent cases of Ex parte Harris, 52 Ala. 87; Ex parte Thompson, 52 Ala. 98; State v. Tucker, 54 Ala. 205. See, also, Ex parte Campbell, 130 Ala. 171 (30 So. 385); Ex parte Woodruff, 123 Ala. 99 (26 So. 509). When mandamus will issue to compel judicial action, not to control it.—Ex parte Woodruff, 123 Ala. 99 (26 So. 509), and authorities supra. Mandamus is a compulsory, not a revisory writ.—Ex parte Harris, 52 Ala. 87. Bond not void because of non-residency of sureties.—State v. Flinn, 77 Ala. 101. Mandamus does not lie to compel approval of official bonds.—Beebe v. Robinson, 52 Ala. 66.

1493. (3080) (267) (171) (160) (121) **Time of filing bonds with secretary of state and auditor.**—The official bonds of public officers, required by law to be filed in the office of state auditor or secretary of state, must be filed therein within forty days after the declaration of election, or the appointment of such officer.

(Feb. 10, 1881, p. 122, § 3.) Failure to file bond of county superintendent of education as required by law.—Reed v. Summers, 79 Ala. 522.

1494. (3081) (268) (172) (161) (122) **Time of filing in circuit clerk's office.**—Such bonds, when required to be filed in the office of the clerk of the circuit court, must be filed therein within twenty days after the declaration of election, or the appointment to office.

(Aikin's Digest, p. 101, § 16; Feb. 10, 1881, p. 122, § 3.)

1495. (3082) (269) (173) (162) (123) **Time of filing in office of judge of probate.**—Such bonds, when required to be filed in

Official Bonds.

the office of any judge of probate, must be filed therein within fifteen days after the declaration of election, or the appointment to the office.

(Feb. 10, 1881, p. 122, § 3.) Judicial proceedings to determine questions as to bonds.—*Harris v. Tucker*, 54 Ala. 205. Statute extends time to file bond.—*State v. Falconer*, 44 Ala. 696.

1496. (3083) (270) (174) (163) (124) **In other cases, within thirty days.**—In all other cases, such bonds must be filed in the proper office within thirty days after the declaration of election, or to the appointment to the office.

(Feb. 10, 1881, p. 122, § 3.)

1497. (3084) **Official bonds to be recorded.**—Each official bond required by law to be filed with any public officer must be, by such officer, recorded word for word in a well bound book and properly indexed.

1498. (3085) (271) (175) (164) (125) **Failure to file bond vacates office.**—If any officer required by law to give bond fails to file the same within the time fixed by law, he vacates his office; and in such case, it is the duty of the officer in whose office such bond is required to be filed, at once to certify such failure to the appointing power, and the vacancy must be filled as in other cases.

Bond, certificate of failure to file official bond which is prescribed by law; vacancy may be declared and filled.—*Plowman v. Thornton*, 52 Ala. 564. Mandamus not proper remedy to try right to public office; quo warranto proper remedy.—*Ex parte Harris*, 52 Ala. 87, overruling *State v. Ely*, 43 Ala. 568, and *Ex parte Candee*, 48 Ala. 386; *Goodwin v. Sherer*, 40 So. 279. Failure to give additional bond vacates office.—*Beebe v. Robinson*, 52 Ala. 66. Office not property.—*Ib.* Appointee duly commissioned cannot be restrained by injunction.—*Beebe v. Robinson*, 52 Ala. 66. Failure to comply does not ipso facto vacate office.—*State v. Ely*, 43 Ala. 568; *State v. Falconer*, 44 Ala. 696; *Sprowl v. Lawrence*, 33 Ala. 674.

1499. (3086) (272) (177) (167) (128) **Notice of failure to file bond must be given to the solicitor.**—If any public officer required by law to give bond fails to file the same within the time prescribed, in the proper office, notice of such failure must be given by the officer in whose office such bond is required to be filed, by or during the first two days of the session of the circuit court held in the county in which the officer so failing resides, next after such failure, to the solicitor of the circuit to which such county belongs, or to the county, if there be a county solicitor.

Prohibition to restrain circuit judge from certifying vacancy in office of probate judge.—*Ex parte Plowman*, 53 Ala. 444.

As amended,
Sep.
9, 1908, p.
232, § 1.

1500. (3087) (273) (179) (169) (130) **Legal effect of official bond.**—Every official bond is obligatory on the principal and sureties thereon—

Official Bonds.

1. For every breach of the condition during the time the officer continues in office, or discharges any of the duties thereof.

2. For the faithful discharge of any duties which may be required of such officer by any law passed subsequently to the execution of such bond, although no such condition is expressed therein.

3. For the use and benefit of every person who is injured, as well by any wrongful act committed under color of his office as by his failure to perform, or the improper or neglectful performance of those duties imposed by law.

4. The words, "For the use and benefit of every person injured," as used in subdivision three, shall include all persons having a direct and proximate interest in the official act or omission, and all persons connected with such official act or omission by estate or interest.

It is of no consequence that what purports to be an official bond is conditioned otherwise than the statute requires.—U. S. Fidelity Co. v. Union Trust Co., 142 Ala. 532 (38 So. 177). It is immaterial whether an official bond is in terms payable to the state or not; the law makes it such.—U. S. Fidelity Co. v. Union Trust Co., 142 Ala. 532 (38 So. 177). Sureties on bond of county treasurer liable for misappropriation of fine and forfeiture fund.—Jackson Co. v. Derrick, 117 Ala. 348 (23 So. 193). Judges are not liable for errors of judgment while acting judicially.—McLendon v. Mort. Co., 119 Ala. 518 (24 So. 721); Kelly v. Moore, 51 Ala. 364. Surety on bond of probate judge not liable for loss of ward's funds placed in his hands by guardian.—Tallman v. Drake, 116 Ala. 262 (22 So. 435). Liability of sureties on sheriff's bond for approving insufficient forthcoming bond.—Scott v. Ryan, 115 Ala. 587 (22 So. 284). Liability of justice of the peace or notary public ex officio justice and his sureties for arrest and imprisonment of defendant for contempt of court.—Coleman v. Roberts, 113 Ala. 323 (21 So. 449). Liability on bond of probate judge for failure to keep direct and inverse indices of records.—Norton v. Kumpe, 121 Ala. 446 (25 So. 841). Wrongful conversion of funds and breach of bond; liability of sureties for interest.—Bandalph v. Brown, 115 Ala. 677 (22 So. 524). Sureties on sheriff's bond not liable for commissions received by sheriff through process regular on its face, though judgment afterwards reversed, though the sheriff himself would be liable.—Clark v. Lamb, 76 Ala. 407. Liability upon constable's bond for wrongful levy.—Couch v. Davidson, 109 Ala. 313 (19 So. 507). Validity of statutes authorizing suit on bond for delinquency in subjecting county to liability.—Lowndes Co. v. Hunter, 49 Ala. 508. Liability on sheriff's bond for wrongful levy and seizure of property.—Price v. Stone, 49 Ala. 543. Liability on tax collector's bond.—Burke v. Blan, 79 Ala. 97. Liability on bond of register in chancery.—Coleman v. Ormond, 60 Ala. 328. Liability on bond of constable for wrongful seizure and sale of chattels.—Burgin v. Raplee, 100 Ala. 433 (14 So. 205). Liability on bond of probate judge for wrongfully issuing warrant on county treasury.—Savage v. Mathews, 98 Ala. 535 (13 So. 328). Liability on sheriff's bond for wrongful levy of attachment to enforce landlord's lien; wrongful act under color of office.—Albright v. Mills, 86 Ala. 324 (5 So. 591). Liability on new and old bond of constable for wrongful levy of attachment.—Bryan v. Kelly, 85 Ala. 569 (5 So. 346). Liability on sheriff's bond for executing void process; liability of sheriff for money collected under process after judgment reversed.—Clark v. Lamb, 76 Ala. 406. Liability of notary ex-officio justice for falsely and fraudulently condemning and collecting money under judgment in garnishment proceedings.—Mason v. Crabtree, 71 Ala. 479. Sureties on tax collector's bond, liability to summary proceedings.—Dudley v. Chilton Co., 66 Ala. 593; Brewer v. King, 63 Ala.

Official Bonds.

511 (see 56 Ala. 1). Liability of sureties for failure of principal to discharge new duties imposed by law subsequent to execution of bond; liability of sureties upon register's bond.—*McKee v. Griffin*, 66 Ala. 211. Liability of county treasurer for money lost through order of commissioners' court.—*Lewis v. Lee County*, 66 Ala. 480. Liability of sureties on official bond of justice of the peace for corrupt official misconduct.—*Irion v. Lewis*, 56 Ala. 190 (see 51 Ala. 364). Liability on bond of county treasurer for educational funds.—*Morrow v. Wood*, 56 Ala. 1. (See 63 Ala. 511.) Liability on bond of justice for wrongful arrest and imprisonment.—*Kelly v. Moore*, 51 Ala. 364 (See 56 Ala. 90.) Liability of constable for seizure or sale of exempt property.—*McElhanev v. Gilliland*, 30 Ala. 183.

1501. Conditions of official bonds, etc.—The bonds of all officers required to give bond shall be conditioned in the following form, to wit: "Whereas, the above bound A. B. was duly elected (or appointed) to the office of _____ on the _____ day of _____, for the term of _____ years from the _____ day of _____; therefore, if he shall faithfully perform and discharge all the duties of said office during his continuance therein, then the above obligation to be void."

But a failure to observe the form herein prescribed shall not vitiate any official bond; and all official bonds shall be valid and binding in whatever form they may be taken, except so far as they may be conditioned for the performance of acts in violation of the laws or policy of the state; and whether in the proper penalty or without any penalty, or whether correct or incorrect in its recitals as to the term of office or otherwise, or whether properly payable, or whether approved by the proper officer or not approved by any, or if irregular in any other respect, such bond, if delivered as the official bond of the officer, and serving as such, shall be obligatory on every one who subscribed it for the purpose of making the official bond of such officer to the full penalty, or, if it have no penalty, to the full penalty of the bond which might have been required.

1502. (3089) (275) (181) (171) (132) Bond not properly executed or approved; effect of.—Whenever any officer, required by law to give an official bond, acts under a bond which is not in the penalty, payable and conditioned, or without sureties of the requisite qualification and sufficiency, as prescribed by law, such bond is valid and binding on the obligors therein, and stands in the place of the official bond, subject on its condition being broken to all the remedies which the person aggrieved might have maintained on the official bond of such officer, executed, approved, and filed according to law.

Contribution of sureties on tax collector's bond; official bond binding as statutory bond.—*Carter v. Fid. & Dep. Co.*, 134 Ala. 369 (32 So. 632). The statute was intended to afford protection to persons interested in the performance of official duties; it is remedial and must be construed to cure and remedy.—*McKissack v. McClendon*, 133 Ala. 558 (32 So. 486); *Sprowl v. Lawrence*, 33 Ala. 674. The phrase "a bond which is not payable or con-

Official Bonds.

ditional, etc., as prescribed by law", construed.—*Steele v. Tutwiler*, 68 Ala. 107; *McKissack v. McClendon*, 133 Ala. 558 (32 So. 486). The statute has reference to want of formality or imperfection in the execution or signing of the bond.—*Ib.* Sheriff's bond properly filled out in body, but not signed by sheriff; liability of sureties on such bond.—*McKissack v. McClendon*, 133 Ala. 558 (32 So. 486). Guardian's bond not signed by principal good as common law obligation.—*Painter v. Mauldin*, 119 Ala. 88 (24 So. 769). Official bond not stating penalty prescribed nor fixing the penalty at greater sum than required.—*Burnett v. Nesmith*, 62 Ala. 261. Sureties on bond of county treasurer; liability for misappropriation of fine and forfeiture fund.—*Jackson Co. v. Derrick*, 117 Ala. 348 (23 So. 193). Liability on bond of superintendent of education; failure to file copy with state superintendent; summary proceedings upon such bond.—*Reed v. Summers*, 79 Ala. 522. Refusal to approve and file bond; effect on bond.—*Ex parte Candee*, 48 Ala. 387. It is of no consequence that what purports to be an official bond is conditioned otherwise than the statute requires.—*U. S. Fidelity Co. v. Union Trust Co.*, 142 Ala. 532 (38 So. 177). It is immaterial whether an official bond is in terms payable to the state; the law makes it such.—*U. S. Fidelity Co. v. Union Trust Co.*, 142 Ala. 532 (38 So. 177).

1503. Informal bonds valid.—All bonds or recognizances taken by any officer in the discharge of his duty shall be valid and binding on the obligors therein, whether taken in the form prescribed or not, so that the substantial matters required be contained therein; and such bonds shall only be void so far as they may be conditioned for the performance of acts in violation of the law or policy of the state; and it shall be lawful to show by parol that any bond or recognizance was taken by an officer in the discharge of his duty, although such fact ought to appear upon the bond or recognizance or in writing, or of record, and do not so appear; and if an officer take a recognizance in a case where he should have taken a bond, it shall bind the parties in the same manner as if it had been authorized.

1504. (3088) (274) (180) (170) (131) Not discharged by single recovery.—Such bonds are not discharged by a single recovery, but proceedings may, from time to time, be instituted thereon until the whole penalty is exhausted.

Sheriff may make more than one official bond; bond can be impeached only by special plea.—*Johnson v. Caffey*, 59 Ala. 331.

1505. (3090) (276) Conditional execution or delivery by sureties.—A surety on an official bond, or on a bond intended as an official bond, cannot avoid liability thereon, on the ground that he signed or delivered it on condition that it should not be delivered to the proper officer, or should not become perfect, unless it was executed by some other person who does not execute it. The provisions of this section apply to bonds of state, county, municipal, and corporate officers; to bonds of executors, administrators, guardians, receivers, assignees, and other trustees, and to all bonds and undertak-

OFFICES AND OFFICERS.

Bonds by Guarantee Companies.

ings executed in the commencement or progress of any suit or judicial proceeding, civil or criminal.

(Feb. 23, 1883, p. 181.)

1506. (3091) (277) (182) (172) (133) Applies to offices hereafter established.—All the provisions of this and the preceding article apply to the oaths of office and official bonds of all public officers of this state, whose office may be established hereafter, unless the contrary is expressly provided.

ARTICLE 5.

BONDS BY GUARANTEE COMPANIES. 1507-1524.

SECTION.

1507. Official bonds may be executed by guarantee companies.
1508. Prerequisites to granting authority to domestic corporation; application showing financial condition; deposit; certificate of authority; license-tax.
1509. Prerequisites to granting authority to foreign corporation; application showing financial condition; deposit; charter; agent; and place of business; certificate of authority; semi-annual reports; annual license-tax.
1510. Secretary of state's certificate good for one year.
1511. Corporation not to become sole surety on bond of state treasurer; may become co-surety; how estimated.
1512. Testator may, in his will, preclude corporation from becoming surety on bond of executor.
1513. Secretary of state must revoke certificate when corporation deemed unsafe; effect; notice; additional bonds; duty of approving officers.
1514. When no agent in state process may be served on the secretary of state.

SECTION.

1515. Jurisdiction of suits on bonds.
1516. Corporation estopped to deny power to execute bond.
1517. Judgment on bond certified to secretary of state; sale of securities.
1518. Corporation entitled to rights and remedies of other sureties.
1519. May wind up business and withdraw securities on deposit.
1520. When value of deposit impaired by sale or depreciation, the same must be made good; faith and credit of state pledged to return securities, etc.
1521. When domestic corporation must deposit additional securities.
1522. Governor may order examination into the financial condition of corporation; duty of corporation; penalty for withholding information.
1523. Article applies only to official bonds and the like.
1524. Bonds, of auditor and secretary of state made by guarantee companies; appropriation for.

1507. (3092) Official bonds may be executed by guarantee companies.—Whenever any person or corporation is or may be required or permitted to execute bond, or other undertaking, of whatsoever nature, with surety or sureties for the faithful discharge or performance of the duties of any state, county,

Bonds by Guarantee Companies.

municipal, precinct, township, district, or corporate office or position, or of any position of public or private trust or employment, for the faithful discharge or performance of any duty, or for the doing or not doing of anything in such bond or undertaking specified; or when any person or corporation is required or permitted to execute any bond or other undertaking, of whatsoever nature, with surety or sureties, in any judicial proceeding, or as guardian, executor, administrator, receiver, assignee, or trustee, the court officer or person having authority, or charged with the duty of approving such bond or undertaking, may, if such bond or undertaking is otherwise sufficient, approve the same when executed by a corporation having the power or authority under its charter to become surety on such bond or undertaking, as surety, and having complied with the provisions of this article; and the execution by any such corporation, as surety, of any such bond or undertaking shall be, in all respects, upon the approval and acceptance of such bond, a full and complete compliance with the requirements of any law, ordinance, rule, or regulation requiring such bond or undertaking shall be executed by one surety, or by one or more sureties, or that such surety or sureties shall be residents of the state, or any county therein, or shall be householders or freeholders, or either or both, or shall possess any other qualification.

(This article is based upon act of Feb. 12, 1897, p. 830, § 1.)

1508. (3093) Prerequisites to granting authority to domestic corporation; application showing financial condition; deposit; certificate of authority; license tax.—Any such corporation, if incorporated under the laws of this state, in order to be qualified to so become such surety, must have an authorized capital stock of one hundred thousand dollars, all of which must be subscribed for and paid in, and either held in money or safely invested in the securities created by the laws of the United States, or by or under the laws of this state, or in other safe, marketable, and interest-bearing stocks or bonds or other securities, the value of which shall be at or above par; and such corporation shall also, before it is authorized to become such surety, deposit with the treasurer of this state twenty-five thousand dollars of securities created by or under the laws of the United States, or by or under the laws of this state, or in other safe, marketable, and interest-bearing stocks, bonds, or other securities, the value of which shall be at or above par, in trust for the benefit of the resident holders of the obligations of such corporation, at their market value; and the liabilities of such corporation shall not exceed its available assets; but such liabilities shall not be construed,

OFFICES AND OFFICERS.

Bonds by Guarantee Companies.

within the meaning of this section, to include its capital stock, nor its contingent liabilities upon bonds or undertakings executed by or under the provisions of this article, but shall include its outstanding debts and a premium reserve equal to fifty per cent of the annual premiums on all outstanding risks then in force; and such corporation shall also file with the secretary of state a written application to do business under this article signed by the president or other managing officer, under its corporate seal, and attested by its secretary, or other officer acting as secretary, to be authorized to do business under this article, and also a statement, signed and sworn to by its president, or other managing officer, and by its secretary, or other officer acting as secretary, stating the amount of its paid-up capital stock, and how it is invested, stating each item of such investment, the amount of premiums on existing bonds upon which it is surety, the amount of liability for unearned portions thereof, estimated at fifty per cent of the annual premiums on all outstanding risks for one year or less, and pro rata for items of more than one year; stating also the amount of its outstanding debts and liabilities of all kinds; and thereupon the secretary of state, if satisfied that such corporation is solvent, and has the cash capital herein provided for, and that it has in all respects complied with and is qualified under this article, shall issue to such corporation a certificate that it is authorized to become and be accepted as sole surety on all bonds or undertakings required or permitted by the laws of this state, or by the charters, ordinances, rules, and regulations of any county, municipal corporation, board, body, organization, or public officer; such company shall also semi-annually, on the first days of January and July of each year, furnish to and file with the secretary of state a similar statement to the one hereinbefore in this section provided for. Such company shall also, at such times as he may demand the same, furnish to the secretary of state such other information touching its condition and credit as he may require, signed and sworn to as in this section provided; and it shall also pay to the secretary of state an annual license tax of one hundred dollars.

1509. (3094) Prerequisites to granting authority to foreign corporation; application showing financial condition; deposit; charter; agent; and place of business; certificate of authority; semi-annual reports; annual license tax.—If such corporation be incorporated under the laws of any other state, in order to be qualified to so become such surety, it must have an authorized capital stock of at least two hundred and fifty thousand dollars, which must be fully paid up and unimpaired, and safely invested in the securities created by the

Bonds by Guarantee Companies.

laws of the United States, or by or under the laws of the state where it is incorporated, or in other safe, marketable, and interest-bearing stocks, bonds, or other securities, the value of which shall be at or above par, one hundred thousand dollars of which shall be deposited with or held by the insurance commissioner or other corresponding financial officer of the state in which such corporation is incorporated and has its principal place of business, in trust for the benefit of the holders of the obligations of such corporation, and, in addition thereto, such corporation shall also deposit with the treasurer of this state fifty thousand dollars of like securities, in trust for the benefit of the resident holders of the obligations of such corporation, at their market value; and the liabilities of such corporation must not exceed its available assets, but such liabilities must not be construed, within the meaning of this section, to include its capital stock, nor its contingent liabilities upon bonds or undertakings executed by it under the provisions of this article, but shall include its outstanding debts and a premium reserve equal to fifty per cent of the annual premiums of all outstanding risks in force; and such corporation shall also, before transacting any business in this state, file with the secretary of state a certified copy of its charter or act of incorporation, and the written application and statements required hereinbefore in the preceding section of this article of domestic corporations. Such corporation shall also, in addition to the foregoing requirements, file in the office of the secretary of state of this state an instrument in writing under the seal of said company, and signed officially by its president or one of its vice-presidents, and by its secretary or one of its assistant secretaries, designating a known place of business in this state, and authorized agent thereat, who shall be a resident of such place, upon whom service of any process or notice required or authorized by law may be made for or on behalf of such corporation. Whereupon, and upon the payment of the license hereinafter required, the secretary of state, if satisfied that such corporation is solvent, and has the cash capital herein provided for, and surplus assets, in excess of its capital stock, its outstanding debts and premium reserve specified, and that it has, in all respects, complied with and is qualified under this article, shall issue to such corporation, and to each of its agents in this state, a certificate that it is authorized to become and be accepted as sole security on all bonds or undertakings required or permitted by law, or the charters, ordinances, rules, and regulations of any county, municipal corporation, board, body, organization, or public officer. Such company shall also semi-annually, on the first days of January and July of each

OFFICES AND OFFICERS.
Bonds by Guarantee Companies.

year, file with the secretary of state a statement similar to that hereinbefore provided for, and shall also furnish him with a certificate from the officer with whom the deposit herein mentioned is required to be made, describing such securities so deposited, and the manner in which they are held by him, and stating that he is satisfied that such securities are fully worth one hundred thousand dollars, and that said corporation is solvent; and such corporation shall also furnish the secretary of state at such times as he may demand the same, such other information touching its condition and credit as he may require, signed and sworn to as in this section provided; and it shall also pay to the secretary of state an annual license tax of one hundred dollars.

1510. (3095) Secretary of state's certificate good for one year.—The certificates hereinbefore provided for by the secretary of state to such corporations, foreign or domestic, shall only authorize such corporations to engage in such business during the year in which or for which it is issued; and such corporations must obtain such certificate annually at the beginning of each year.

1511. (3096) Corporation not to become sole surety on bond of state treasurer; may become co-surety; how estimated.—No such corporation shall, however, be accepted as sole surety on the bond of the state treasurer; but such corporation may become and be accepted as a co-surety with other persons, or with other corporations of like powers and qualifications, upon such bond; and in the event any such corporation does become a co-surety on said bond, its property or credit shall not be estimated to exceed one hundred thousand dollars.

1512. (3097) Testator may, in his will, preclude corporation from becoming surety on bond of executor.—Whenever any testator, by the terms of his will so provides, no such corporation shall be accepted upon the bond of any executor or administrator of such testator.

1513. (3098) Secretary of state must revoke certificate when corporation deemed unsafe; effect; notice; additional bonds; duty of approving officers.—The secretary of state shall at any time, on becoming satisfied that any corporation is insolvent, or cannot be safely accepted as surety upon the instruments hereinbefore provided for, or upon such corporation failing on demand to furnish the secretary of state full and satisfactory information touching its business, securities, or investments, or upon such corporation violating any of the provisions of this article, revoke the authority of such corporation to transact any new business in this state; and thereupon the right of such corporation to transact any new

Bonds by Guarantee Companies.

business shall cease, and it shall not thereafter be allowed to transact such business until it has again received from the secretary of state another certificate of the character hereinbefore prescribed. Upon revoking such authority, the secretary of state shall give notice thereof, in some newspaper of general circulation published at the seat of government, and by circular letter to each officer in this state authorized to approve official bonds, stating the grounds of such revocation. If such authority is revoked upon the ground that such corporation is insolvent, or cannot be safely accepted as surety upon such bonds or undertakings, it shall be the duty of any such officer, upon receiving such circular letter, or upon his having brought to his attention such publication, to require the principal in any such bond upon which such corporation has become surety, to give an additional bond as provided by law.

1514. (3099) When no agent in state, process may be served on the secretary of state.—If the agent designated by any corporation as provided in the third section of this article shall die, resign, remove from the state or county, become insane, or otherwise incapable of acting, it shall be the duty of such corporation to appoint another agent in his place as in said section prescribed; and until such appointment shall have been made, or during the absence of the agent of said corporation from the state or county, or when he evades process, or at any time when said corporation has no agent in this state, service of process against such corporation may be made upon the secretary of state with like effect as upon an agent so appointed by such corporation. The officer serving such process upon the secretary of state must immediately transmit a copy thereof by mail to the corporation, and state such fact in his return.

1515. (3100) Jurisdiction of suits on bonds.—Any bond or undertaking executed by such corporation may be sued on in the county of residence of the principal, or in which he resided at the time of the execution of the same; but suits by the state may be brought in Montgomery county.

1516. (3101) Corporation estopped to deny power to execute bond.—No corporation having signed any such bond or undertaking shall be permitted to deny its corporate power to execute such instrument, or incur such liability in any proceedings to enforce liability against it thereunder.

1517. (3102) Judgment on bond certified to secretary of state; sale of securities.—If any such foreign or domestic corporation shall fail or refuse to pay any final judgment or decree rendered against it upon any such bond or undertaking

Bonds by Guarantee Companies.

from which no appeal and supersedeas has been taken for thirty days after the rendition of such judgment or decree, it shall be the duty of the clerk or register of the court in which such judgment or decree was rendered to certify a copy thereof to the secretary of state, together with the fact that it remains unpaid, and the secretary of state must require the state treasurer to sell as many of the bonds or other securities deposited by such corporation with the state treasurer as may be necessary to pay such judgment or decree and the interest and costs thereon, and to pay to the clerk or register of such court, from the proceeds of such sale, the amount of such judgment or decree, with interest and costs; and it shall be the duty of the state treasurer to sell such bonds or other securities at private or public sale, with or without notice, or so many as may be necessary, for the best price he can obtain in the market, to assign the same to the purchaser, and to apply the proceeds, or so much thereof as may be necessary, to the payment of such judgment or decree, with interest and costs, the surplus, if any, remaining on deposit in lieu of the bonds or other securities so sold. Of such sale the secretary of state must forthwith notify such corporation and require it to supply the deficiency within thirty days; and if such corporation shall fail to do so, the secretary of state must cancel its authority to act under this article, and give notice thereof to the persons and in the manner prescribed by the fourth preceding section.

1518. (3103) Corporation entitled to rights and remedies of other sureties.—Such corporation as surety on any bond, undertaking, or obligation is entitled to all the rights and remedies of other sureties on such instruments; and any corporation becoming security on any bond or undertaking, as authorized by this article, shall have the same right to be relieved from further liability thereon, or to require the principal to give new or additional bonds or undertakings, as is conferred by law upon the other sureties on like bonds or undertakings.

1519. (3104) May wind up business and withdraw securities on deposit.—When any foreign or domestic corporation transacting business in this state under the provisions of this article ceases to transact such business, it may withdraw the securities deposited with the state treasurer upon satisfying him that it has discharged or been relieved from any and all risks and liabilities it has incurred in this state, and upon the state treasurer becoming satisfied that such corporation has discharged or been relieved from all such risks and liabilities, he shall deliver to such corporation the securities so deposited by it with him.

Bonds by Guarantee Companies.

1520. (3106) When value of deposit impaired by sale or depreciation the same must be made good; faith and credit of state pledged to return securities, etc.—If at any time the bonds or other securities deposited by foreign or domestic corporations with the state treasurer under the provisions of this article should be diminished in amount by sale, as hereinbefore provided, or should depreciate in value, the secretary of state shall require such corporation to deposit other bonds or other securities of like kind, as hereinbefore provided, with the state treasurer, so that the amount and value of such bonds or other securities in the hands of the state treasurer shall, at all times, be fifty thousand dollars. For all bonds and securities deposited by all such corporations under the provisions of this article, the faith and credit of the state are hereby pledged, that the said bonds and securities shall be returned to the parties entitled to receive them, or disposed of as provided in this article.

1521. (3107) When domestic corporation must deposit additional securities.—If any corporation organized under the laws of this state, and authorized to become surety as herein provided, should extend its business of becoming surety on official or other bonds or undertakings hereinbefore mentioned beyond the limits of this state, then such corporation shall, before being entitled to further carry on such business in this state, deposit with the treasurer of this state fifty thousand dollars, including the twenty-five thousand dollars hereinbefore provided to be so deposited by it, of like securities, as those required to be deposited by foreign corporations by the third section of this article.

1522. (3108) Governor may order examination into the financial condition of corporation; duty of corporation; penalty for withholding information.—The governor shall at any time when he considers the public interest so demands, direct the examiner of public accounts to examine into the financial condition of any corporation, foreign or domestic, doing business under the provisions of this article, and make report thereon to the secretary of state; and upon the governor so directing, and upon the demand of said examiner, such corporation shall submit to the examination of such examiner all such books, papers, and securities as he may require; and such examiner shall also have the power to examine the officers of such corporation under oath touching its business and financial condition, and the authority of any such corporation to transact business under this article, that refuses to allow such examination, shall be revoked by the secretary of state, and such corporation shall not thereafter be allowed to trans-

OFFICES AND OFFICERS.

Bonds by Guarantee Companies.

act further business in this state until it has fully complied with the provisions of this section.

1523. (3109) Article applies only to official bonds and the like.—Nothing herein contained shall apply to any bond or undertaking which is not by law required to be approved by any state, county, municipal, precinct, township, district, or other like office, or by any judge, clerk, or register of any court of this state, or to corporations engaged merely in the business of becoming sureties on any such bond or undertaking; and the acts and duties heretofore required to be performed by the auditor, but now authorized to be performed by the secretary of state under this Code, are declared valid and binding, whether performed by the auditor as formerly required, or by the secretary of state, as now required.

Aug. 1.
1907, p.
625, § § 1
and 2.

1524. Bonds of auditor and secretary of state made by guarantee companies; appropriation for.—The bonds of the state auditor and secretary of state as now fixed by law may be made and insured by qualified guarantee companies, and there is appropriated out of the funds of the treasury, not otherwise appropriated, an amount not to exceed two hundred dollars per annum, sufficient to pay the premium to said guarantee company or companies for making and insuring the said bonds of the state auditor and secretary of state. Provided, that if such state officer is unable to procure bond in such guarantee companies on terms satisfactory to himself and the governor, the governor is authorized to receive and approve personal surety on the bonds of such official. No guarantee company shall be accepted as a surety unless it has on deposit with the treasurer of the state at least fifty thousand dollars worth of securities, as provided by law. This appropriation shall be paid by auditor's warrant upon the approval of the governor, and shall apply to present officers who are required to make bonds. In case of any suit upon the bond of any such officer as herein provided, the courts of Alabama shall have exclusive jurisdiction thereof.

ARTICLE 6.

ADDITIONAL BONDS AND NEW SURETIES IN CERTAIN CASES. 1525-1539.

SECTION.

1525. Auditor and treasurer.
 1526. Additional bonds from officers whose bonds are approved by circuit judge or chancellor; when required.
 1527. New bond for county officers whose terms are extended.
 1528. Bonds approved by judge of probate.
 1529. Requisition in writing, and copy served.
 1530. Additional bond; when to be given.
 1531. Penalty, etc., of additional bond.

SECTION.

1532. Effect of such bonds.
 1533. First bond not discharged.
 1534. Rights of sureties among themselves.
 1535. Five freeholders may petition to have bond declared insufficient.
 1536. Day appointed for hearing and deciding on sufficiency of bond.
 1537. Application, order and minute of proceedings; where filed.
 1538. Upon failure to make new bond, office declared vacant.
 1539. Bond and affidavit required.

1525. (3110) (278) (183) (173) (134) **Auditor and treasurer.**—It is the duty of the governor to require additional bonds of the state auditor and state treasurer, or any other officer whose bond is required to be approved by the governor, whenever in his opinion the interest of the state demands.

Consideration for execution of new bond by tax collector; recitals of bond, conclusiveness thereof.—*Fid. & Dep. Co. v. Mobile*, 124 Ala. 144 (27 So. 836).

1526. (3111) (279) (184) (174) (135) **Additional bonds from officers whose bonds are approved by circuit judge or chancellor; when required.**—Any judge of probate, or any other officer whose official bond is required to be approved by a judge of the circuit court or chancellor, must, upon the address of a majority of the grand jury of the county in which the duties of such office are exercised, made in term time to the presiding judge of the circuit court, or in vacation upon the address of any three members of the court of county commissioners to the judge of the circuit, be required by such presiding judge, or in vacation by the judge of the circuit, to give an additional bond.

When surety cannot defend as to notice for new bond or upon ground of fraudulent misrepresentation or that the bond was refused by the state auditor.—*Bromberg v. Fid. & Dep. Co.*, 139 Ala. 338 (36 So. 622). Jurisdiction of judge to execute new bond; what amounts to abandonment of office; what not a removal from office.—*Thompson v. Holt*, 52 Ala. 491. Obligees of two bonds become co-sureties as to each other.—*Lott v. Mobile Co.*, 79 Ala. 69. Lien of additional bond, right of subrogation thereunder; transfer of state's lien.—*Randolph v. Billing*, 115 Ala. 682 (22 So. 468). Discharge of sureties, by judgments discharging principal.—*State v. Parker*, 72 Ala. 181. See 133 Ala. 563 (32 So. 486.)

1527. **New bond for county officers whose terms are extended.**—All county officers whose terms of office have been

Additional Bonds and New Securities in Certain Cases.

Sept. 17,
1908, p.
238, § 1
and 2.

extended or may be extended beyond the term for which they were respectively elected or appointed shall be required to execute a new official bond covering the time of such extension. Such bonds to be in the penalty and payable, conditioned, approved, filed, and recorded as is required for the regular term of such officers respectively, and to have all the force and effect as official bonds executed under the provisions of this Code with respect to such office. Failure to make and file bond shall vacate office as in case of regular bond in similar cases.

1528. (3112) (280) (185) (175) (136) **Bonds approved by judge of probate.**—Any sheriff, coroner, clerk of the circuit court, justice of the peace, constable, tax assessor, tax collector, or any other officer whose official bond is required to be approved by any judge of probate, must, in like manner, upon the address of the grand jury of the county, made in term time, or of three members of the court of county commissioners made in vacation, be required by such judge of probate to give an additional bond.

(Clay's Digest, p. 534, § 13.) New bonds required on request of grand jury; recitals in such bonds.—Fid. & Dep. Co. v. Mobile, 124 Ala. 144 (27 So. 386).

1529. (3113) (281) (186) (176) (137) **Requisition in writing, and copy served.**—The requisition to give additional bond must in all cases be in writing, and signed by the officer making the same; must state the day and place when and where the officer cited must appear and give such bond; and a copy of such requisition must be personally served on such officer before the day specified therein.

1530. (3114) (282) (187) (177) (138) **Additional bond; when to be given.**—Such officer must give such additional bond within ten days after the day specified in such requisition; and failing to do so, he vacates his office, and the officer making the requisition must at once certify the same to the appointing power, by whom the vacancy must be filled.

1531. (3115) (283) (188) (178) (139) **Penalty, etc., of additional bond.**—Such additional bond must be in the same penalty, and payable, conditioned, approved, and filed in the same office, as the first official bond.

Ex parte Plowman, 53 Ala. 440; County v. Timberlake, 54 Ala. 403.

1532. (3116) (284) (189) (180) (141) **Effect of such bonds.**—Every such additional bond is of like force and obligation on the principal and sureties thereon, from the time of its

Additional Bonds and New Securities in Certain Cases.

approval, and subject to the same remedies as the first official bond.

Constable's official bond; validity, and how impeached; liability of constable for selling exempt property.—*Bryan v. Kelly*, 85 Ala. 569 (5 So. 346). Lien of additional bond, right of subrogation thereunder; transfer of state's lien.—*Randolph v. Billing*, 115 Ala. 682 (22 So. 468).

1533. (3117) (285) (190) (181) (142) **First bond not discharged.**—In no case provided for under any of the preceding sections of this article are any of the official bonds previously executed discharged; but each remains of the same force and obligation as if the additional bonds had not been given; and any person aggrieved can have his remedy upon either or all of such bonds, in the same or in separate proceedings.

(Clay's Digest, p. 534, § 14.) Discharge of sureties by judgment discharging principal.—*State v. Parker*, 72 Ala. 181. (See 133 Ala. 563 (32 So. 486).)

1534. (3118) (286) (191) (182) (143) **Rights of sureties among themselves.**—The sureties in either bond, who may have been compelled to make any payment thereon for the principal obligor, have the same remedies against the sureties in the remaining bonds as co-sureties have against each other, and may recover, against such sureties, such an amount as shall be in the same proportion to the sum paid by the plaintiff as the aggregate penalty of the two bonds bears to the penalty of the bond of the defendant, apportioning the same among the solvent sureties.

Surety who pays obligation entitled to costs in contribution; when bond binding as statutory bond.—*Carter v. Fid. & Dep. Co.*, 134 Ala. 369 (32 So. 632). Lien of additional bond, right of subrogation thereunder; transfer of state's lien.—*Randolph v. Billing*, 115 Ala. 682 (22 So. 468).

1535. (3119) (287) (192) **Five freeholders may petition to have bond declared insufficient.**—Upon the application of five or more resident freeholders of the county, addressed to the chancellor of the division or judge of the circuit, and verified by the oath of one or more of the applicants, alleging that the bond of the judge of probate, or the judge of the county court, or the clerk of the circuit court, or of the clerk of the city court, or of the sheriff, or of the tax assessor, or of the tax collector, or of the county treasurer, is for any cause insufficient, and setting forth the grounds upon which the allegation is based, such officer may be required to make a new bond if, upon the hearing of such application by the chancellor or circuit judge, it shall appear that the bond is for any cause insufficient.

(Mar. 17, 1875, p. 50, § 6.) The want of statutory qualifications of surety does not exempt such surety or co-sureties from liability.—*State v. Flinn*, 77 Ala. 102. Power of legislature to require official bond; effect of retrospective statutes as to liability on bond.—*Ex parte Buckley*, 53 Ala. 42.

Additional Bonds and New Securities in Certain Cases.

1536. (3120) (288) (193) **Day appointed for hearing and deciding on sufficiency of bond.**—Upon the making of the application, the chancellor or circuit judge must appoint a day, not more than twenty days thereafter, for the hearing of the application, of which time and the place of hearing the same the officer shall have at least ten days' notice. If upon the hearing of the application it shall appear to the satisfaction of the chancellor, or judge, either from oral or written testimony, to be produced before him, that the bond for any cause is insufficient, he shall at once make an order requiring such officer to make and execute a new bond within fifteen days from the date of such order.

(Mar. 17, 1875, p. 50, § 7.)

1537. (3121) (289) (194) **Application, order and minute of proceedings; where filed.**—The application and order, and minute of the proceedings shall be filed in the office of the circuit court clerk of the county in which the officer discharges the duties of his office, except when the application is based upon the insufficiency of the bond of the circuit clerk, in which case they shall be filed in the office of the judge of probate.

(Mar. 17, 1875, p. 50, § 8.)

1538. (3122) (290) (195) **Upon failure to make new bond, office declared vacant.**—Upon the failure of any officer to make and execute a new bond, when required to do so, within the prescribed time, the office which he holds is hereby declared vacant; and in such event it shall be the duty of the circuit clerk in whose office the papers and proceedings are filed to certify such vacancy forthwith to the officer having authority to fill the same, except when such vacancy is in the office of the circuit clerk, in which case it shall be the duty of the judge of probate to certify the vacancy; and such officer shall at once fill such vacancy by appointment.

(Mar. 17, 1875, p. 50, § 9.)

1539. (3123) (291) (196) **Bond and affidavit required.**—The chancellor or circuit judge, before fixing the day for the hearing of such application, in addition to the oath verifying the application, must require one or more of the applicants to make oath that the application is not made for the purpose of vexing or harassing the defendant; he must further require the applicants to execute a bond with sufficient surety, in such amount as may be fixed by the chancellor or circuit judge, payable to the officer whose bond is alleged to be insufficient, with condition that the applicants will prosecute the application to effect, and will pay the officer all such damages as

The Discharge of Sureties on Official Bonds in Certain Cases.

he may sustain from the wrongful or vexatious making of such application, together with the costs of the same.

(Mar. 17, 1875, p. 50, § 10.)

ARTICLE 7.

THE DISCHARGE OF SURETIES ON OFFICIAL BONDS IN CERTAIN CASES.
1540-1548.

SECTION.

1540. Application of sureties to be discharged.
1541. To whom made.
1542. Notice to principal to give new bond.
1543. Failure to give it.
1544. How approved and filed.

SECTION.

1545. When sureties discharged.
1546. When new bond goes into effect.
1547. Effect of exoneration of surety.
1548. Sureties' rights among themselves.

1540. (3124) (292) (197) (183) (144) **Application of sureties to be discharged.**—Any person who is surety upon the official bond of any public officer, required to be approved by the judge of the circuit court, or judge of probate, or chancellor, can discharge himself of such suretyship, whenever he is in danger of being made liable on such bond, and can have no adequate remedy against his principal, in consequence of his inability to discharge such liability, upon making an application in writing, setting forth such facts.

(Dec. 7, 1866, p. 136.) Executing a new bond does not discharge sureties.—*Jones v. Ritter*, 56 Ala. 270. Requiring new bond from sheriff on application of surety.—*Bruner v. Bryan*, 50 Ala. 524. (See 52 Ala. 98; 52 Ala. 66.) Liability of sheriff on official bond for destruction of steamboat.—*Price v. Stone*, 49 Ala. 549. County administrator not public officer within meaning of section.—*Mitchell v. Nelson*, 49 Ala. 88.

1541. (3125) (293) (198) (184) (145) **To whom made.**—This application must be addressed to the officer, or to one of the officers required to approve such bond, and must be sworn to.

1542. (3126) (294) (199) (185) (146) **Notice to principal to give new bond.**—The officer to whom such application is addressed must require the principal named in such application to appear before him on and at a certain day and place, and give a new bond; which requisition must be in writing, signed by the officer making the same, and must be personally served on such principal before the day named therein.

1543. (3127) (295) (200) (186) (147) **Failure to give it.**—If such requisition is personally served, and the officer named therein fails to give an additional bond within ten days after the day specified in such requisition, he vacates his office; and the officer making such requisition must at once certify the same to the appointing power, who must fill the vacancy.

Books, Papers, Property and Money of Public Officers Delivered to Successor.

1544. (3128) (296) (201) (187) (148) **How approved and filed.**—On the execution of the additional bond provided for in this article, the same must be approved and filed, with the application and requisition, with the first official bond.

1545. (3129) (297) (202) (189) (150) **When sureties discharged.**—On the execution, approval, and filing of such additional bond, such applicants are exonerated as sureties on the bond on which such application was made, from all liability for any breach of the condition therein contained, accruing subsequently to the filing of such additional bond.

1546. (3130) (298) (203) (190) (151) **When new bond goes into effect.**—Every such additional bond approved and filed as in this article is provided for, is binding on the obligors from the time of its approval, and subjects them to the same liabilities, proceedings, and remedies as are provided in relation to the first official bond of such officer.

1547. (3131) (299) (204) (191) (152) **Effect of exoneration of surety.**—The exoneration provided for in the second preceding section does not affect the previous liability of any of the obligors; but in case of the discharge of any one or more obligors, under such section, the same shall operate as a discharge of all other obligors.

(Feb. 19, 1867, p. 70.)

1548. (3132) (300) (205) (192) (153) **Sureties' rights among themselves.**—Whenever the sureties on either bond have made any payments thereon, on account of the principal obligor therein, they are entitled to the same remedies and recoveries against the sureties in the remaining bonds as are provided by section 1534 (3118).

ARTICLE 8.

BOOKS, PAPERS, PROPERTY AND MONEY OF PUBLIC OFFICERS DELIVERED TO SUCCESSOR. 1549-1555.

SECTION.

- 1549. Property and papers delivered to successor.
- 1550. Proceedings to compel delivery.
- 1551. Officer discharged on affidavit.
- 1552. On refusal, imprisoned.

SECTION.

- 1553. Search warrant.
- 1554. Delivered to incumbent if obtained.
- 1555. If in possession of any other person proceedings to recover.

1549. (3133) (301) (206) (193) (154) **Property and papers delivered to successor.**—In all cases in which it is not otherwise expressly provided, when any office is vacated, except by the death of the incumbent, all books, papers, property,

Books, Papers, Property and Money of Public Officers Delivered to Successor.

and money belonging or appertaining to such office must, on demand, be delivered over to his qualified successor.

Statute does not apply to executions and levies made by former officer.—*Ryan v. Couch*, 66 Ala., 246; *Bruister v. Gavin*, 127 Ala. 317 (28 So. 410). Remedy given only to qualified successors; who can compel delivery.—*Beebe v. Robinson*, 64 Ala. 171. Remedy not to be embarrassed by questions of mere pleading or regularity; facts tried by court and not by jury.—*Chambers v. Stringer*, 62 Ala. 596. Applies only to cases where title to office is free from doubt; when prohibition will not be granted to prevent proceedings.—*Ex parte Scott*, 47 Ala. 609. Whether liable under bond as register or receiver.—*Coleman v. Ormond*, 60 Ala. 332. Duty of public officer to surrender to successor the property of the office; the title to a public office resides in the public.—*Thompson v. Holt*, 52 Ala. 499. Proceeding under this article is summary, designed to afford an expeditious remedy.—*Thompson v. Holt*, 52 Ala. 499. Succeeding officer bailee of former officer with respect to property in custody of official.—*Bruister v. Gavin*, 127 Ala. 317 (28 So. 410). Commissioner of agriculture, term of office; filling of vacancy; compelling delivery of books and papers to successor.—*Lane v. Kolb*, 92 Ala. 636 (9 So. 873).

1550. (3134) (302) (207) (194) (155) **Proceedings to compel delivery.**—If any person refuses or neglects, after demand made, to deliver over any books, papers, or property as required in the preceding section, his successor may make complaint thereof to the judge of the circuit court, or judge of the probate court of the county in which the person refusing resides; and if such officer is satisfied by the oath of the complainant, and such other evidence as may be offered, that any such books, papers, or property are withheld, he must grant an order requiring the person so refusing to show cause before him, on a day and at a place named in such order, why he should not be compelled to deliver the same.

To compel justice of the peace to turn over books.—*Tillman v. Porter*, 142 Ala. 372 (38 So. 647).

1551. (3135) (303) (208) (195) (156) **Officer discharged on affidavit.**—At the time so appointed, or at any other time to which the matter may be adjourned, a copy of such order having been personally served on the person so refusing, such officer must proceed to inquire into the circumstances. If the person charged with withholding such books, papers, or property makes affidavit before such officer that he has delivered over to his successor all such books, papers, and property in his custody, or appertaining to such office, all further proceedings against him must cease.

1552. (3136) (304) (209) (196) (157) **On refusal, imprisoned.**—If the person complained against does not make such affidavit, and it appears that any such books, papers, or property are withheld, the officer before whom the proceedings are had must, by warrant, commit the person so withholding to the jail of the county, there to remain until he

Vacating Office; Death, Resignation, Insanity, Removal.

delivers such books, papers, or property, or is otherwise discharged by law.

1553. (3137) (305) (210) (197) (158) **Search warrant.**—In the case stated in the preceding section, if required by the complainant, such officer must also issue his warrant, directed to any lawful officer, commanding him in the daytime to search such places as may be designated in such warrant, for such books, papers, and property as belonged and appertained to the office vacated, and to seize and bring them before the officer issuing such warrant.

1554. (3138) (306) (211) (198) (159) **Delivered to incumbent if obtained.**—Upon books, papers, or property being brought before such officer by virtue of such warrant, he must inquire and examine whether the same appertained to the office vacated, in which case he must cause such books, papers, and property to be delivered to the complainant.

1555. (3139) (307) (212) (199) (160) **If in possession of any other person, proceedings to recover.**—If any person holding any office in this state dies, or his office in any way becomes vacant, and any books, papers, or property belonging or appertaining to such office come into the possession of any person, the qualified successor to such office may, in the manner before prescribed in this article, demand such books, papers, or property from the person having the same in his possession, and on the same being withheld, an order may be obtained; and the person charged may, in like manner, make oath of the delivery of all such books, papers, and property that ever came into his possession; and in case of his failure to make such oath and to deliver up the books, papers, or property so demanded, such person must be committed to jail, and a search warrant may be issued, and the books, papers, or property seized by virtue thereof and delivered to the complainant, as hereinbefore prescribed.

ARTICLE 9.

VACATING OFFICE; DEATH, RESIGNATION, INSANITY, REMOVAL. 1556-1568.

SECTION.

1556. How offices are vacated.
 1557. Vacation of judicial office by acceptance of another office.
 1558. Sentence of officer to the penitentiary vacates office.
 1559. Vacation of offices of clerk of the circuit court, etc.
 1560. Insanity vacates office.
 1561. Notice of death of member of congress, or of legislature, etc.; by and to whom given.
 1562. Notice of death of judge of probate given by circuit clerk.

SECTION.

1563. The resignation of the governor.
 1564. Resignation of member of congress, etc.
 1565. Resignation of justices and constables.
 1566. Notice of removal from county, etc.
 1567. Notice of judgment vacating office to be given by clerk.
 1568. Notice of vacancies to be filled by the legislature.

1556. (3140) (308) (213) (200) (161) **How offices are vacated.**—Any office in this state is vacated—

1. By the death of the incumbent.
2. By his resignation, except in such cases as are excepted by law.
3. By ceasing to be a resident of the state, or of the division, district, circuit, or county, for which he was elected or appointed.
4. By the decision of a competent tribunal declaring his election or appointment void, or his office vacant.
5. By the act of the legislature abridging his term of office, when the same is not fixed by the constitution.
6. In such other cases as are or may be declared by law.

Vacating office by conviction of felony; appointment of county solicitor.—*Ex parte Diggs*, 50 Ala. 78. Transmitting resignation makes it effectual without acceptance and cannot be recalled.—*Williams v. Fitts*, 49 Ala. 402. Vacancy in office of trustee of university; statutes authorizing governor to fill vacancy of trustees does not apply to vacancies caused by expiration of term.—*Little v. Foster*, 130 Ala. 154 (30 So. 477).

1557. (3141) (242) (150) **Vacation of judicial office by acceptance of another office.**—The judge of a court of record, or a chancellor, vacates his judicial office by the acceptance of another office, state, county, or municipal.

(Acts 1873, p. 58.)

1558. (3142) (243) (151) (146) (107) **Sentence of officer to the penitentiary vacates office.**—When any person, holding any office or place under the authority of this state, is sentenced by any court of the United States, of this state, or any state, to imprisonment in the penitentiary, or hard labor for the county, his office or place is vacated from the time of the

OFFICES AND OFFICERS.

Vacating Office; Death, Resignation, Insanity, Removal.

sentence; and if the judgment is reversed, he must be restored; but if pardoned, he must not.

Vacating office by conviction of felony; appointment of county solicitor.—*Ex parte Diggs*, 50 Ala. 78.

1559. (3143) (309) (214) (201) Vacation of offices of clerk of the circuit court, etc.—The offices of clerk of the circuit court, tax collector, tax assessor, county treasurer, and justices of the peace, are respectively vacated from the expiration of the incumbent's term, when there is a failure to elect at any general election, where such officers are elected by the people.

(Dec. 8, 1862, p. 53, § 1.)

1560. (3144) Insanity vacates office.—When the incumbent of any office is, upon a proceeding in lunacy, adjudged to be of unsound mind, such office is vacated, and the judge of probate must certify the vacancy to the appointing power; but if such proceeding is thereafter revoked or annulled, he must, upon his own request, be restored.

1561. (3145) (310) (215) (202) (162) Notice of death of member of congress, or of legislature, etc.; by and to whom given.—On the death of any senator or representative from this state to the congress of the United States, or of any member of the legislature, the judge of probate of the county in which such officer, at the time of his death, resided, must give notice thereof to the governor; in case of the death of the governor, such judge of probate must give notice to the lieutenant-governor; and in case of the death of any other officer, to the officer who fills the vacancy.

1562. (3146) (311) (216) (203) (163) Notice of death of judge of probate given by circuit clerk.—On the death of any judge of probate, the clerk of the circuit court of the county for which he was elected must give notice thereof to the governor.

1563. (3147) (312) (217) (204) (164) The resignation of the governor.—The governor, if he resigns during the session of the legislature, must transmit his resignation to the lieutenant-governor; otherwise, to the secretary of state, who must notify the lieutenant-governor.

1564. (3148) (313) (218) (205) (165) Resignation of members of congress, etc.—The resignation of senators and representatives in congress, and members of the legislature, must be transmitted to the governor; and in all other cases, except justices and constables, to the officer or tribunal which fills the vacancy.

1565. (3149) (314) (219) (206) Resignation of justices and constables.—The resignation of justices and constables must

Salaries of Officers; When Payable.

be transmitted to the judge of probate of the county in which the office may have been held; and the judge of probate must thereupon notify the governor.

(Nov. 4, 1862, p. 99.)

1566. (3150) (315) (220) (207) (166) **Notice of removal from county, etc.**—Notice of removal of any officer, other than justices of the peace or constables, from the state, or from the district, circuit, or county, for which he was elected or appointed, must be given by and to the same officers as notice of his death is required by this article to be given.

1567. (3151) (316) (21) (208) (168) **Notice of judgment vacating office to be given by clerk.**—Whenever there is a judgment of a competent tribunal declaring any election or appointment void, or any office vacated, such judgment must, if the vacancy is filled by appointment, the day after the time for taking an appeal has expired, be certified by the clerk of such court, or by the judge, if there be no clerk, to the appointing power.

1568. (3152) (317) (222) (209) (168) **Notice of vacancies to be filled by the legislature.**—The governor must give notice to the legislature, at each session thereof, of all offices to be filled by that body, which have become vacant, or which will be vacated by the expiration of the term of office before the next regular session.

Vacancy in office of trustee of university; statute authorizing governor to fill vacancy of trustee does not apply to vacancies caused by expiration of term.—*Little v. Foster*, 130 Ala. 154 (30 So. 477).

ARTICLE 10.

SALARIES OF OFFICERS; WHEN PAYABLE. 1569-1571.

SECTION.

1569. Salaries; when due.

1570. Succeeding officer entitled to salary for day change takes place.

SECTION.

1571. Salaries of certain officers; incumbents, when effective.

1569. (3153) (318) (223) (210) (169) **Salaries; when due.**—The salaries of all officers are payable on the last day of each month; but any unpaid salary may be paid upon the expiration of the term of the officer.

(Feb. 23, 1866, p. 75; Feb. 18, 1867, p. 554.)

1570. (3154) **Succeeding officer entitled to salary for day change takes place.**—The succeeding officer is entitled to the salary for the day upon which he is inducted into office, to the exclusion of the retiring officer.

Feb. 22,
1907, p.
63, § 1.

1571. Salaries of certain officers; incumbents; when effective.—The salary of the attorney-general, the state auditor, the secretary of state, the state treasurer, the superintendent of education, the commissioner of agriculture and industries, the president and associate inspectors of convicts, the director of the department of archives and history, as fixed in this Code, shall not be effective until the expiration of the respective terms of office of each of such incumbents in office on the 22d day of February, 1907; but each of such incumbents shall receive the salary and be paid as provided by law on that date.

CROSS REFERENCES.

OFFICES AND OFFICERS (Elections) (Political Code)	290- 491
OFFICERS AND OFFICES; CRIMINAL OFFENSES CONCERNING (Criminal Code)	7430-7490
OFFICERS; MUNICIPAL (Political Code)	1172-1207
OFFICERS; REMOVAL BY QUO WARRANTO (Civil Code)	5450-5472
OFFICERS; TIME OF ELECTION (Political Code)	331- 338
OFFICIAL BONDS (Political Code)	1497
OFFSET (Civil Code)	5858-5880

CHAPTER 34.

OILS, ILLUMINATING. 1572-1580.

SECTION.

- 1572. Tags must be attached before selling or exchanging.
- 1573. Oils to be submitted to ex officio state chemist.
- 1574. Duty of chemist to test samples of illuminating oil and make certificate on same.
- 1575. Copy of official test evidence.
- 1576. Board of trustees may employ additional assistance.
- 1577. Board of trustees must make requisition upon state auditor for tags.

SECTION.

- 1578. Tags supplied by state auditor and account kept against the Alabama Polytechnic Institute.
- 1579. Board of trustees of institute must keep tags on hand for sale.
- 1580. Board of trustees of institute to make report of sale of tags to state auditor, and disposition of proceeds of such sales.

Mar. 4,
1903, pp.
228-232.

1572. Tags must be attached before selling or exchanging.—Any person, firm, association, or corporation selling or offering for sale or exchange any illuminating oil in this state must have tags, as hereinafter provided, attached to each tank, barrel, can, package, or parcel of said oil, and must use tags for every gallon sold in bulk from tank wagons or storage.

Said tag shall have printed thereon the words, "Guaranteed — Degrees Fire Test," designating in the blank space the true test of the oil offered for sale, and must have printed thereon a facsimile signature of the state auditor and of the ex officio state chemist.

1573. Oils to be submitted to ex officio state chemist.—Mar. 4. 1903. pp. 222-232. Before offering illuminating oil for sale or exchange, the person, firm, association, or corporation proposing to sell or exchange must submit to the state chemist at Auburn, Alabama, a written or printed statement, setting forth:

1. The name and brand under which said oil is to be sold or exchanged, the number of gallons contained in the tank barrel, can, parcel, or package in which it is to be put upon the market, and the name or names of the manufacturers or dealers.

2. The fire test which they are willing to guarantee to be a true test of each brand of said illuminating oil, named in such statement; and such statement shall be held to constitute a guarantee to the purchaser of such oil of the quantity and quality of the oil contained in such tank, barrel, can, parcel, or package.

1574. Duty of chemist to test samples of illuminating oil and make certificate on same.—Ib. The professor of chemistry of the Alabama Polytechnic Institute is the official chemist to test samples of illuminating oil proposed to be sold in this state. Whenever any sample of oil is submitted to said chemist, whether the same be submitted on the application of any person, firm, association, or corporation, or procured directly from the manufacturer, consumer, or dealer by the board of trustees of said institute, and it is the duty of said board, from time to time, to secure samples of oil being offered for sale in different parts of this state, it shall be the duty of said chemist to test the same for fire test, and also chemical composition and quality, and make a certificate of such test, a copy of which certificate shall be furnished by the said board of trustees to the person, manufacturer, or dealer from whom such oil was obtained.

1575. Copy of official test evidence.—Ib. The copy of the official test of any illuminating oil under the seal of said board of trustees shall be admissible as evidence of the facts therein stated in any of the courts of this state on the trial of any issue involving the merits of said oil.

1576. Board of trustees may employ additional assistance.—Ib. The said board of trustees may employ such additional assistance in making tests of illuminating oils or in procuring samples of such oils to be tested as may be necessary, and may pay therefor out of the moneys received by said board from the sale of tags.

Mar. 4,
1903, pp.
228-232.

1577. Board of trustees must make requisition upon state auditor for tags.—The board of trustees of the Alabama Polytechnic Institute, through its accredited agent, must, at such times as may be necessary, make written requisition upon the state auditor for the estimated number of tags required to supply the demand.

1b. **1578. Tags supplied by state auditor and account kept against the Alabama Polytechnic Institute.**—Upon the receipt of such requisition, the state auditor must have printed the required number of tags of suitable material for attaching to the tanks, barrels, cans, packages, or parcels of illuminating oil, and for all such oil sold in bulk from tank wagons or storage. The state auditor must, as soon as practicable, deliver such tags to the Alabama Polytechnic Institute, or to its accredited agent at the capitol, taking the receipt of said institute therefor; and the state auditor shall keep a true and correct account with said institute, charging said institute with all tags furnished, at the price of one-half cent for each gallon written or printed thereon.

1b. **1579. Board of trustees of institute must keep tags on hand for sale.**—The board of trustees of the Alabama Polytechnic Institute must keep on hand for sale tags printed as hereinabove provided of such denomination of gallons as will be convenient for use of persons offering for sale or exchange illuminating oil, and shall charge for such tags the price of one-half cent for each gallon of oil designated on said tag.

1b. **1580. Board of trustees of institute to make report of sale of tags to state auditor, and disposition of proceeds of such sales.**—The said board of trustees of the Alabama Polytechnic Institute must report to the state auditor at the end of each month the number of tags sold during the month, and pay into the state treasury three-fourths of the gross amount of moneys received from such sales, and shall, at the end of each month, pay into the treasury of said institute one-fourth of the moneys received from the sale of tags, to defray the expenses of testing such illuminating oils, to be disbursed for the benefit of said institute.

CROSS REFERENCES.

OILS (Political Code	1572-1580, 2361
“ (Criminal Code)	7491
OLEOMARGARINE (Manufacturing or Selling) (Political Code)	22
“ (Criminal Code)	7079
ORDINANCES OF MUNICIPALITIES (Political Code).....	1251-1259
OUTLAWS (Criminal Code).....	7492
OVERFLOWED LANDS (Political Code).....	879- 882
OVERSEER OF ROADS (Civil Code)	5797 et seq.

CHAPTER 35.

OYSTERS. 1581-1592.

ARTICLE 1. PLANTING AND TAKING. 1581-1586.

ARTICLE 2. TAKING OYSTERS FOR CANNING REGULATED. 1587-1592.

ARTICLE 1.

PLANTING AND TAKING. 1581-1586.

SECTION.

- 1581. Right to plant.
- 1582. Public reefs.
- 1583. Property in oysters taken from public reefs.

SECTION.

- 1584. Manner and time of taking.
- 1585. Measure.
- 1586. License to take oysters from public reefs.

1581. (3155) **Right to plant.**—The owners of land fronting on any bay, river, bayou, or creek within this state, are granted the right to plant oysters, and gather the same, in the waters in front of their land, to the distance of six hundred yards from the shore; but where the distance from shore to shore is less than twelve hundred yards, the owners on either shore may plant and gather to a line equi-distant between the two shores, but no person shall plant in any natural channel so as to interfere with navigation. The respective owners shall plant within lines extended into the water from the points where their boundaries intersect the shore, as nearly as practicable, with a mean width corresponding with their respective frontages on the shore, but should the lines thus extended cross each other, or seriously interfere with obtaining such mean width, then a line equi-distant from the shore lines of the respective owners shall be the boundary line between such planting grounds. Nothing in this chapter shall be construed as an abandonment by the state of its right or title to the overflowed lands within such limits; but upon the asserting of the rights of the state, the owners of oysters planted in such limits shall have the right to remove them. No riparian rights shall vest in any person under this section, nor be recognized by the state in or to the land covered by the waters between two parallel lines drawn as follows: one across the south end of Cedar Point, and one across the north end of Dauphin Island, both extending east and west from points mentioned.

(Dec. 10, 1892, p. 27, § 1; Feb. 14, 1893, p. 518, § 1.) Chapter of the Code construed.—Simonson v. Cain, 39 So. 571; S. C. 138 Ala. 221 (34 So. 1019). Trespassing upon oyster beds by passing boats thereon.—Simonson v. Cain, 138 Ala. 221 (34 So. 1019). State's proprietary rights in and to oyster beds and oysters; legislature may regulate planting and taking of oysters from state.—State v. Harrub, 95 Ala., 176 (10 So. 752).

Taking Oysters for Canning Regulated.

1582. (3156) Public reefs.—The title to and property in all oysters in the tidewaters of the state outside of the six-hundred-yard limit prescribed in the preceding section shall remain in the state until divested as hereinafter provided. Oyster beds outside of such limits shall be known and designated as public reefs.

(Dec. 10, 1892, p. 27, § 2.)

1583. (3158) Property in oysters taken from public reefs.—When any resident citizen of this state shall lawfully take oysters from the public reefs, he shall have an unqualified interest in the oysters so taken, and shall have the right to sell the same without restriction or reservation.

(Dec. 10, 1892, p. 27, § 4.)

As amend-
ed, Oct.
3, 1903, p.
839, § 1.

1584. (3159) Manner and time of taking.—It shall be unlawful for any person to take oysters from the public reefs except with the hands, or the double rake known as oyster tongs, worked by the use of either handles or ropes operated by hand power.

(Dec. 10, 1892, p. 27, §§ 5, 6.)

1585. (3160) Measure.—When oysters in the shell are bought or sold by measure, it shall be by box measure, and the measure must be uniform in shape and of the following dimensions: eighteen inches long, twelve inches wide, and six inches deep, all inside measure; and four of such measures filled and rounded, without heaping, shall constitute a barrel.

(Dec. 10, 1892, p. 27, § 9.)

1586. (3157) License to take oysters from public reefs.—A license is hereby given to resident citizens of the State of Alabama to take oysters from the public reefs in the state, subject to the restrictions and regulations herein provided; but no person not a bona fide resident of this state is, or shall be, authorized to take or transport such oysters from, over, or through any of the waters of the State of Alabama.

(Dec. 10, 1892, p. 27, § 3.)

ARTICLE 2.

TAKING OYSTERS FOR CANNING REGULATED. 1587-1592.

SECTION.

1587. Removing oysters for canning.
1588. License to take oysters for canning.
1589. Limit of number taken for canning.

SECTION.

1590. Size of oysters taken from public reefs.
1591. Size of oysters taken from private reef.
1592. Baldwin county exempt.

Feb. 9,
1901, p.
119, § 1.

1587. Removing oysters for canning.—Any person or corporation, being a bona fide resident and citizen of the State of

Taking Oysters for Canning Regulated.

Alabama for one year or more, and engaged in the business of canning oysters within the state, may employ or contract with any person or persons, whether residents of Alabama or not, to catch and remove oysters from any oyster reefs within the state for use in the conduct of such business, and may use such oysters in such business as their own property.

1588. License to take oysters for canning.—Any person under such employment or contract may catch and remove oysters from any of the public reefs of the state for use in said canning business, as well as from all private reefs, from the owners or proprietors of which such person or persons or corporations so engaged in such canning business shall have first obtained a license to catch and remove such oysters; but no person under such employment or contract, who is not a resident of this state, shall catch and remove oysters from any public or private reefs in the state except for use in such canning business, as aforesaid. Feb. 9, 1901, p. 119, § 2.

1589. Limit of number taken for canning.—No person or corporation shall take more than thirty-five hundred barrels of oysters a week from the public reefs of this state, under the provisions of this article. ib., § 3.

1590. Size of oysters taken from public reefs.—No person or corporation shall take or buy, receive or have in possession when taken by another, any oyster or oyster shell from any public reef of this state, whether single or in cluster, of less size than two and one-half inches in length in the shell, such length to be covered by the shell when laid on a practically level surface, except where the same may be taken by resident catchers or private owners for the purpose of planting, in which case the burden of proof showing such intent and purpose shall be upon the person so taking or receiving such oysters. ib., § 4.

1591. Size of oysters taken from private reefs.—No person or corporation shall take, or buy, receive, or have in possession, when taken by another, any oyster or oyster shell from any private reef of this state, whether single or in cluster, of less size than two and one-half inches in length in the shell, such length to be that covered by the shell when laid on a practically level surface. ib., § 5.

1592. Baldwin county exempt.—The provisions of this article shall not apply to the county of Baldwin. ib., § 1.

CROSS REFERENCES.

OYSTERS; OFFENSES CONCERNING (Political Code).....	1581-1585
“ (Criminal Code)	7493-7509

CHAPTER 36.

PARDONING BOARD. 1593-1597.

SECTION.	SECTION.
1593. Attorney-general, secretary of state, and state auditor, pardoning board.	1595. Authority of pardoning board.
1594. Duties of pardoning board.	1596. Annual report of pardoning board.
	1597. No additional compensation.

Const. of
1901,
§ 124;
Feb. 14,
1901, p.
121, § 1.

1593. Attorney-general, secretary of state, and state auditor pardoning board.—Whenever application is made to the governor for the parole, pardon, or commutation of sentence of any convict sentenced for a felony, he may at once refer the same, with all the recommendations, and any other papers accompanying it, to the attorney-general, secretary of state, and state auditor, as a pardoning board, for such action as is hereinafter provided.

Ib., § 2.

1594. Duties of pardoning board.—Said attorney-general, secretary of state, and state auditor, when any application for parole, pardon, or commutation of sentence is referred to them, shall hear in open session, carefully examine, and thoroughly investigate the same, and shall report in writing, within sixty days from the time the same is referred to them, to the governor, their finding as to the merits of such application and the grounds thereof, and in such report they shall approve or disapprove such application, or make such recommendation as to the same as may seem to them advisable; after which, or on the failure of the board to advise, for more than sixty days, the governor may grant or refuse the commutation, parole, or pardon, as to him seems best for the public interest.

Ib., § 3.

1595. Authority of pardoning board.—Said board may call upon any judge, or solicitor, or other public officer of the state, for any information or recommendation which may seem to them necessary or advisable in their consideration of any application so referred to them, and the person so called on shall furnish the same forthwith.

Ib., § 4.

1596. Annual report of pardoning board.—At the end of each fiscal year said board shall make to the governor a written report of the applications so acted upon by them, showing the

name and residence of each applicant, of what crime convicted, the sentence therefor, and, in brief, their recommendations in the case, which report shall be printed and submitted by the governor to the legislature with his message.

1597. No additional compensation.—Said board shall not receive any compensation for their services under this chapter other than that already allowed to them as such attorney-general, secretary of state, and state auditor, and the clerks now allotted to them shall perform for them, without additional compensation, all such clerical service as may be necessary in the execution of the duties imposed upon them by this chapter.

Feb. 14,
1901, p.
121, § 5.

CROSS REFERENCES.

PARDONING BOARD (Political Code)	1593-1597
PARDONS, COMMUTATIONS AND REPRIEVES (Political Code) ..	573, 1558
" (Criminal Code)	7510-7516, 7653-7654
PARENT AND CHILD (Civil Code)	5199-5202, 3767-3777, 4505-4511
PARTIAL PAYMENTS (Civil Code)	4898, 4622, 4850
PARTICULARS; BILL OF (Civil Code)	5326
PARTIES AND ACTIONS (Civil Code)	2440-2506
PARTIES IN CHANCERY (Civil Code)	3087-3089
PARTITION (Civil Code)	5203-5264
PARTITION FENCES (Civil Code)	4247-4250
PARTNERSHIP (Civil Code)	5265-5289, 2653-2665
PASSENGER RATES FIXED (Railroads) (Civil Code)	5563, 5564
PASSENGERS (Civil Code)	5487, 5488
PASSENGERS; TRANSPORTATION OF (Railroads) (Civil Code) ..	5472-5631
PASTURAGE LIEN (Civil Code)	4808, 4809
PATENTS (Political Code)	888-891, 1796-1797

CHAPTER 37.

PAUPERS. 1598-1617.

SECTION.

1598. Court of county commissioners purchase and sell lands and other property for poorhouses.
1599. Jurisdiction; poorhouses.
1600. Settlement of paupers.
1601. Relief of those not entitled to a settlement; burial of strangers.
1602. Certain dead to be buried by corporate authorities.
1603. Strolling paupers removed, and, if sick, relieved.
1604. Rules for government of poorhouse.
1605. Pauper employed in labor.
1606. Duty of each supervisor.
1607. Relief until removed.

SECTION.

1608. County may appropriate money in aid of indigent Confederate soldier or sailor.
1609. Compensation to persons carrying the overseer of the poor. ing for insane paupers.
1610. Pauper lunatics supported by
1611. Sick prisoners in jail.
1612. Burial of the poor.
1613. Payment of expenses.
1614. Relatives liable to support poor; how enforced.
1615. Certificate of judge of probate evidence of maintenance.
1616. Costs not to be taxed against county on failure.
1617. Captains of vessels bringing paupers to the state, to give bond; penalty for breach; penalty for refusal.

1598. (3232) (1465) (1729) (1446) (1211) **Court of county commissioners purchase and sell lands and other property for poorhouses.**—The court of county commissioners may purchase and hold lands and other property, proper for the erection and continuance of a poorhouse, and may, at their discretion, dispose of lands now or hereafter owned for such purpose, and make titles therefor, and may make all appropriations and orders proper for the erection and continuance of poorhouses, and for the regulation and government of the poor and poorhouses.

(Aikin's Digest, pp. 340-343; Clay's Digest, pp. 491-495.) Original statutes passed from 1803 to 1807.—Toulmin's Digest, pp. 649 et seq.

1599. Jurisdiction; poorhouses.—The court of county commissioners of each county shall have jurisdiction and power necessary and proper for the relief and support of the poor of its county, and it shall have the control of the poorhouses, and may employ a suitable person to take charge of the same. It shall see that the poor are properly treated; and it may provide nurses and physicians in such cases as it may deem proper, and purchase medicine, and payment therefor may be ordered out of the proper fund by warrant on the county treasurer.

1600. Settlement of paupers.—To entitle any pauper to be supported by the county, he must have been a bona fide resident thereof for six months prior to his application for sup-

port; and the settlement of the parent or parents shall entitle the children to a settlement.

1601. Relief of those not entitled to a settlement; burial of strangers.—The court of county commissioners shall also relieve, support, or employ paupers found or being in the county, though not entitled to a settlement therein, and in case of their decease, shall decently bury them, and the court shall decently bury all strangers dying in the county.

1602. Certain dead to be buried by corporate authorities.—The municipal authorities of every city, town, or village, shall bury all strangers found dead within their limits, or found floating in any river at a point adjoining the limits, and all expenses or charges shall be chargeable to the county; and an accurate account thereof shall be reported to the court of county commissioners, which shall allow the same, and order it to be paid out of the county treasury; but the court of county commissioners may fix maximum charges for such burials.

1603. Strolling paupers removed, and, if sick, relieved.—The members of the court of county commissioners shall prevent the poor from strolling from one district to another; and, in case any pauper shall leave the county in which he may have a settlement, and remove to another county, any member of the court of county commissioners may make an order to remove the pauper back to the county from which he came, directed to any constable to execute. But if the pauper be sick or disabled, so that he cannot be removed, he shall be provided for in the county in which he may be found until he can be removed. And it shall be the duty of the court of county commissioners, to which any pauper belongs, to receive him, on his removal, and provide for him as in other cases.

1604. Rules for government of poorhouse.—The court of county commissioners shall prescribe such rules as it may deem expedient for the government and support of the poorhouse, and may discharge any superintendent and employ another.

1605. Paupers employed in labor.—The court of county commissioners may cause the superintendent of the poorhouse to employ in labor such paupers as may be able to work, in such way as it may deem proper, without endangering their health or without oppressing them; and a fair account of the profits resulting from such labor shall be kept and returned to the court of county commissioners. No pauper shall be caused to work without a certificate of the county physician that said work will not be injurious to such pauper.

1606. Duty of each supervisor.—Whenever any member of the court of county commissioners shall ascertain that there is

a pauper in his district probably entitled to relief, it shall be his duty to examine into the pauper's right to support; and, if he be satisfied that such pauper is unable to support himself, or is entitled to be supported or provided for by the county, he shall report the facts to the court of county commissioners for its action; and, in case of emergency, he may give his written order to the superintendent of the poorhouse to receive such pauper; and may cause the pauper to be removed to the poorhouse.

1607. Relief until removal.—The court of county commissioners, and in case of emergency, the commissioner of the district, may provide for the temporary relief of a pauper until he can be removed to the poorhouse, not exceeding one month.

1608. (3236) County may appropriate money in aid of indigent Confederate soldier or sailor.—The commissioner's courts and county boards of revenue are authorized, in their discretion, to appropriate out of the county funds, a sum not exceeding forty dollars per annum, payable quarterly, in aid of any indigent Confederate soldier or sailor who is, by reason of blindness or the loss of a leg or an arm, totally disabled from physical labor.

(Feb. 21, 1893, p. 1007.)

Sep. 17,
1908, p.
227, § 1.

1609. Compensation to persons caring for insane paupers.—The court of county commissioners and county boards of revenue shall provide a schedule of fees in their respective counties, to be paid out of the county treasury on their order, to the county officers, or any person duly deputized by such officers, to temporarily provide for the care and maintenance of any person alleged to be insane, when such person has no means of paying such expense, pending an investigation into the mental status of such alleged insane pauper, before the probate judge of such county. Such judge shall, at the same time, hear evidence and decide therefrom the question of the ability of such alleged insane pauper to pay such expenses.

1610. (3237) (1469) (1733) (3201) (2762) Pauper lunatics supported by the overseer of the poor.—If an idiot or insane person has no estate, and no person is willing to become his guardian, the judge of probate must place him in charge of the overseer of the poor, who must provide for his safe-keeping and sustenance, and may call on his relations to aid in his support, under the provisions of this chapter.

(Aikin's Digest, p. 340, § 2.)

1611. (3239) (1471) (1749) (1468) Sick prisoners in jail.—Whenever any insolvent person, confined in jail in any county of this state, on any criminal charge, becomes sick and requires

medical or surgical attention or medicine, the sheriff, or jailer, of the county, must give notice to the probate judge of the county of the condition of such person, and the probate judge must, on receiving such notice, or on receiving information in any other manner, of the sick and destitute condition of such person, employ a physician or surgeon, and furnish medicines and appliances as may by him be prescribed for such sick person; and the reasonable expenses of such medical attendance and medicines shall constitute a valid claim against the county.

(Feb. 14, 1860, p. 72.) Complaint must aver and proof must show that services were rendered to prisoner confined in jail.—*Malone v. Escambia Co.*, 116 Ala. 214 (22 So. 503). County liable for medical attention whether engaged by probate judge or served for jailor.—*Malone v. Escambia Co.*, 116 Ala. 214 (22 So. 503).

1612. (3240) (1472) (1747) (1466) **Burial of the poor.**—Upon the decease of any person having no estate, leaving no relative in the county with ability or estate adequate to defray his necessary burial expenses, such expenses are a charge upon the county in which such demise shall take place.

(Feb. 14, 1856, p. 4, § 1; Feb. 23, 1860, p. 46, § 1.)

1613. (3241) (1473) (1748) (1467) **Payment of expenses.**—When a death occurs, as contemplated in the preceding section, the court of county commissioners, upon the presentation of the account properly verified, shall make an order requiring the payment of the necessary burial expenses to the party by whom the same were incurred.

(Feb. 14, 1856, p. 4, § 2; Feb. 23, 1860, p. 46, § 2.) Law casts on surviving husband the duty of burying his deceased wife, and the expense thereof is not due from her estate.—*Lott v. Graves*, 67 Ala. 42.

1614. (3233) (1466) (1730) (1447) (1212) **Relatives liable to support poor; how enforced.**—The father, grandfather, brother, mother, grandmother, child, or grandchild, of any poor persons, unable to maintain themselves, being of sufficient ability, must support such persons; and failing to do so, any county in the state, having made provisions for such persons, may sue their father, grandfather, brother, mother, grandmother, child, or grandchild, of full age, or either of them, before any court having jurisdiction, and recover, at the rate of eight dollars a month, for the time such county has made provision for such persons; the court or jury, trying the same, being satisfied from the evidence that the defendant was of sufficient ability to provide for their support.

(*Alkin's Digest*, p. 342, § 7; *Clay's Digest*, p. 493, § 7.) Son is liable for the support of his indigent mother.—*L. & N. E. R. Co. v. Jones*, 130 Ala. 456 (30 So. 586). The custody of children is proper subject for chancery jurisdiction; where the child itself expresses a preference to live with its

uncle, who has adopted it, the court will award it to such uncle rather than to its paternal grandparent.—Woodruff v. Conley, 50 Ala. 305.

1615. (3234) (1467) (1731) (1448) (1213) **Certificate of judge of probate evidence of maintenance.**—On the trial, the certificate of the judge of probate of the county, that the person was poor and unable to maintain himself, and that he was maintained for such time at the expense of the county, is presumptive evidence of such facts.

1616. (3235) (1468) (1732) (1449) (1214) **Costs not to be taxed against county on failure.**—Should the county fail to recover, no costs are to be taxed against the plaintiff, except for witnesses attending on behalf of such plaintiff.

1617. (3238) (1470) (1746) (1465) (1219) **Captains of vessels bringing paupers to the state, to give bond; penalty for breach; penalty for refusal.**—Any person, commanding any vessel which brings into this state any infant, lunatic, maimed, deaf, dumb, aged, or infirm person, who is likely to become chargeable to any county, may be brought before any judge of probate, and if such judge is satisfied that such person will probably be a charge to any county, he must require such master to enter into bond, payable to the state, with sureties resident in the state, to be approved by such judge, in the sum of five hundred dollars for each of such persons so brought, conditioned to pay all such expenses as any county in the state may incur in the support of such person; which bond must be filed and kept by such judge, and on its condition being broken, may be sued on, and a recovery had in different actions to the amount of the penalty thereof, in the name of the state, for the use of the county; and on failure to give such bonds, the judge must commit such master to jail until he gives the same, or is otherwise discharged by law.

(Aikins Digest, p. 342, § 8; Clay's Digest, p. 494, § 8.)

CROSS REFERENCES.

PAUPERS (Political Code).....	1598-1613
PAWNBROKERS AND PAWNS (Civil Code).....	5290-5295
" (Criminal Code)	7517
PEACE PROCEEDINGS (Criminal Code).....	7518-7540
PEACHES; DRIED (Political Code).....	2439
PEAS (Political Code).....	2439
PEDDLERS (Civil Code).....	2361
PENAL LAWS (Criminal Code).....	7805, 7806
PENITENTIARY (Criminal Code)	6479-6572
PENSIONS FOR SOLDIERS AND SAILORS (Political Code).....	1995-2055
PERJURY (Criminal Code).....	7541-7548
PERPETUATING TESTIMONY (Civil Code)	4062-4076

PERPETUITY (Civil Code)3410 et seq.
PERSONAL PROPERTY (Civil Code).....3778-3792, 3378 et seq.
PERSON OF COLOR (Political Code)..... 2
PERSON OF UNSOUND MIND (Giving or Selling Liquor to) (Criminal Code) 7355

CHAPTER 38.

PHARMACISTS; EXAMINATION TO PRACTICE. 1618-1625.

<p>SECTION. 1618. Board of pharmacy created; appointment and qualification of members. 1619. Register of practicing pharmacists. 1620. Registered pharmacists of other states.</p>	<p>SECTION. 1621. Examination of applicants; how conducted. 1622. Fees for examination. 1623. Other examinations allowed. 1624. Liability of pharmacist for quality of drugs. 1625. Appropriation.</p>
--	--

1618. (3248) Board of pharmacy created; appointment and qualification of members.—The governor shall appoint three persons from among the most prominent pharmacists of the State of Alabama, all of whom shall have been residents of the state for five years, and of at least five years' practical experience in their profession, who shall be known and styled "Board of Pharmacy for the State of Alabama," one of whom shall hold his office for one year, one for two years, and one for three years, and each until his successor shall be appointed and qualified; and each year thereafter another person, to be selected by the governor, who shall possess the same qualifications as hereinabove set out, shall be so appointed for a term of three years and until a successor is appointed and qualified. If a vacancy occur in said board by death, resignation, inability, or otherwise, another shall be appointed by the governor, who shall possess the same qualifications as hereinabove set out, to fill the unexpired term thereof. The members of the present board of pharmacy for the State of Alabama shall serve until the expiration of the respective terms for which they have been appointed. Said board shall have power to make by-laws and all necessary regulations, and create auxiliary boards, if necessary for the proper fulfillment of their duties under this chapter, without expense to the state.

Aug. 6,
 1907, p.
 568, § 1.

(This chapter is based upon such acts of Feb. 28, 1887, p. 106, § 3.)

1619. Register of practicing pharmacists.—The board of pharmacy shall register in a suitable book, the names and places of residence of all persons to whom they issue certificates, and dates thereof; but this section shall not apply to any

Ib., § 4.

person holding a certificate as a registered pharmacist in the State of Alabama, on the 1st day of January, 1908.

Aug. 6,
1907, p.
553, § 4.

1620. Registered pharmacists of other states.—The state board of pharmacy may issue a certificate without examination to any person holding an authorized certificate as a registered pharmacist from such other state boards of pharmacy as may be recognized by the said board of pharmacy for the State of Alabama.

Ib., § 5.

1621. (3251) Examination of applicants; how conducted.—The said board of pharmacy shall, upon application, made in such form as may be required by said board, and at such time and place, and in such manner as they may determine, either by a schedule of questions to be answered and subscribed under oath, or orally, examine each and every person, who has had a practical experience of one year in compounding physicians' prescriptions, and in the general duties of pharmacy, and who is a person of good moral character and temperate habits, who shall desire to conduct the business of selling at retail, compounding or dispensing drugs, medicines, or chemicals for medicinal use, or compounding or dispensing physicians' prescriptions as pharmacists, and if a majority of said board shall be satisfied that said person is competent and fully qualified to conduct said business of compounding or dispensing drugs, medicines, and chemicals for medicinal use, or to compound or dispense physicians' prescriptions, they shall enter the name of such person as a registered pharmacist in a book provided for it in section 1619 of this Code. Any person or persons not a pharmacist or druggist may open and conduct such store, if he or they keep constantly in their employ a registered pharmacist or druggist; but shall not himself or themselves sell or dispense drugs or medicines except proprietary and patent medicines in original packages.

Ib., § 6.

1622. Fees for examination.—The board of pharmacy shall be entitled to demand and receive from each and every person they examine orally, or where answers to a schedule are returned subscribed to under oath, the sum of five dollars, which shall be in full for all services.

Ib.

1623. Other examinations allowed.—In case the examination of said person shall prove ineffective, insufficient, or unsatisfactory, and his name not be registered, he shall be permitted to present himself for examination within any period not exceeding twelve months thereafter, and no charge shall be made for such examination.

Ib., § 7.

1624. Liability of pharmacist for quality of drugs.—Every registered pharmacist, apothecary, or owner of a drugstore, shall be held responsible for the quality of all drugs, chemicals,

or medicines he may sell or dispense, with the exception of those sold in original packages of the manufacturer, and also those known as proprietary.

1625. Appropriation.—The sum of five hundred dollars a year, or as much thereof as may be found necessary, is appropriated out of the moneys received for licenses for the expense of said board of pharmacy; all surplus over and above said amount to be divided as follows: one-half to the Alabama Pharmaceutical Association, and the remainder to be paid into the state treasury.

Aug. 6,
1907, p.
568, § 13.

CROSS REFERENCES.

PHARMACISTS (Political Code)	1618-1625
“ (Criminal Code)	7549-7563
PHRASES (Political Code)	1-13

CHAPTER 39.

PHYSICIANS; EXAMINATION TO PRACTICE MEDICINE. 1626-1646.

SECTION.

- 1626. Board of medical examiners.
- 1627. Branches of learning examined upon.
- 1628. Application for examination to practice medicine.
- 1629. Certificate to practice medicine.
- 1630. Major surgery; certificate of qualification to practice.
- 1631. Other examinations allowed on failure.
- 1632. Certificate filed in probate office.
- 1633. Register of physicians for certificate to practice medicine kept by probate judge.
- 1634. Board of medical examiners, reciprocal with those of other states.
- 1635. Physicians of adjoining states; regulations as to practice in this state.
- 1636. Surgeons; assistant surgeons of United States may practice in this state.

SECTION.

- 1637. Revoking certificate to practice medicine.
- 1638. Investigation by board of examiners to revoke license.
- 1639. Revocation of license entered upon register of physician in probate office.
- 1640. New certificate issued after one revoked.
- 1641. Examinations held at Montgomery.
- 1642. Fees for examination; payment of.
- 1643. Compensation of board of examiners.
- 1644. Compensation for services when certificate not recorded.
- 1645. Records of examination kept by board.
- 1646. Domestic and family remedies excepted from statute.

1626. (3260) (1301) (1530) Board of medical examiners.—The board of censors of the medical association of the State of Alabama, organized in pursuance of the constitution thereof,

Amend. adopted at Tuscaloosa, in March, 1873, is hereby constituted a state board of medical examiners, and is charged with the duties hereinafter prescribed.

ed, Aug.
9, 1907, p.
501, § 1.

(Aikin's Digest, p. 338, § 1; Clay's Digest, p. 487, § 1; Feb. 9, 1877, p. 80, § 1.) The following cases construed the old law, and not the following sections, which are new to this Code. One physician may purchase the good will and business of another, and such contracts are not in restraint of trade and may be specifically enforced.—*McCurry v. Gibson*, 108 Ala. 451 (18 So. 806). Those who practice osteopathy are within the regulation of the statute and must obtain a license or certificate. The practice of medicine is defined to be the science and art of preserving health and preventing and curing disease; called the healing art; the science of medicine is the theory of disease and remedies.—*Bragg v. State*, 134 Ala. 170 (32 So. 767). "Persons practicing medicine," "physicians," and "doctors" are synonymous terms.—*Harrison v. State*, 102 Ala. 170 (15 So. 563). The conservation of public health is clearly within police powers. It is not only within the power, but it is the duty of the legislature to protect the public against the dangers of charlatanism, ignorance, and quackery, and such statutes are not unconstitutional. There are two systems by which physicians obtain a license to practice medicine; one from the medical board established by law, and the other by a diploma from a regular medical college.—*Brooks v. State*, 88 Ala. 122 (6 So. 902); *Bell v. State*, 104 Ala. 79 (15 So. 557). Failing to record diploma does not render physician liable to indictment.—*Stough v. State*, 88 Ala. 234 (7 So. 150). A physician practicing medicine without a license, in violation of law, cannot recover compensation for his services.—*Harrison v. Jones*, 80 Ala. 412. A person who does not hold himself out as a physician or solicit patronage is not liable for administering medicine to sick persons without compensation.—*Nelson v. State*, 97 Ala. 79 (12 So. 421). Practicing dentistry without a license; certificates cannot have retroactive effect so as to legalize illegal practice.—*Nicholson v. State*, 100 Ala. 132 (14 So. 746).

Aug. 9,
1907, p.
501, § 2.

1627. Branches of learning examined upon.—An applicant for a certificate of qualification to treat diseases of human beings by any system of treatment whatsoever shall, according to rules prescribed by the medical association of the State of Alabama, be examined in writing, by the state board of medical examiners, in the following named branches of medical learning, to wit: Chemistry, anatomy, physiology, etiology, pathology, symptomatology, and diagnosis of diseases; obstetrics and obstetrical operations; gynecology; major and minor surgery, physical diagnosis, diseases of the eye, ear, nose, and throat; and hygiene and medical jurisprudence.

I...§ 2.

1628. Application for examination to practice medicine.—An applicant shall, before being permitted to enter upon an examination, fill out an application blank, giving his name, age, residence, college and date of graduation (if a graduate), references, and such other data as the state board of medical examiners may require. The applicant shall make affidavit that he is the person he represents himself to be, and that he will faithfully observe all rules governing the examination. Any member of the state board of medical examiners, or the supervisor of examinations appointed by said board, may ad-

minister the oath prescribed. The board shall have the right to refuse to examine a person whose reputation is such as to render him unworthy of membership in the medical profession.

1629. Certificate to practice medicine.—When an applicant who has undergone examination shows such a standard of proficiency in the branches of medical learning enumerated in section 1627 of this Code as has been or may be fixed by the medical association of the State of Alabama, a certificate of qualification, in form to be prescribed by the said association, shall be issued to the applicant, which certificate shall entitle the holder thereof to treat any diseases of human beings he may be called upon to treat in accordance with the teachings of the school or sect of medicine to which he belongs. Aug. 9,
1907, p.
591, § 4.

1630. Major surgery; certificate of qualification to practice. Ib., § 5.
—When an applicant states in writing that he does not propose to practice major surgery, said applicant shall be exempt from examination in said branch of major surgery, and should his proficiency in the other branches of medical learning named in section 1627 of this Code reach the standard established by the medical association of the State of Alabama, a certificate of qualification in form to be prescribed by said association shall be issued to him, which certificate shall entitle him to treat any diseases of human beings he may be called upon to treat in accordance with the teachings of the school or sect of medicine to which he belongs, provided that the holder shall not be entitled to perform the operation of major surgery, and that this restriction shall appear on the face of the certificate.

1631. Other examinations allowed on failure.—When an applicant fails to attain the standard of proficiency prescribed by the state medical association his examination shall be deemed unsuccessful. Such applicant shall, however, be entitled to another examination at any time after the expiration of six months from the date of the preceding examination. Ib., § 6.

1632. (3264) (1306) (1532) Certificate filed in probate office.—A physician who receives a certificate of qualification shall, within ten days after locating in a county, file said certificate in the office of the judge of probate of such county for record, and should said physician remove his residence to another county he shall within said time have his certificate re-recorded. Any failure on the part of the holder of a certificate of qualification to comply with the provisions of this section shall render such certificate null and void. Ib., § 7.

Aug. 9,
1907, p.
581, § 8.

1633. Register of physicians for certificate to practice medicine kept by probate judge.—The judge of probate of a county shall provide a blank book of suitable size, to be called the "Register of Physicians," in which book shall be recorded all certificates of qualification filed by the physicians of the county. The fee for recording each certificate shall be fifty cents. At some time between the first and tenth of January of each year the said judge of probate shall forward to the state board of medical examiners a full report of the names of all physicians, together with their postoffices, whose certificates have been recorded in his office for the preceding year; and if any physician whose certificate was so recorded shall have removed from the county, or shall have died, the place to which such physician has removed, if known, or the date of the death, as the case may be, shall be reported.

Id., § 9.

1634. Board of medical examiners, reciprocal with those of other states.—The state board of medical examiners may establish reciprocal relations with similar boards of other states in reference to the issuance of certificates of qualification, provided that such reciprocal relations shall not be established with the state board of examiners of any state that does not require examination upon substantially the same branches of medical learning as those enumerated in section 1627 of this Code, and does not maintain a standard of proficiency at least equal to that maintained by the state board of medical examiners of this state. When such reciprocal relations have been established a certificate of qualification may be issued without examination to a person who presents evidence that he has complied with the requirements of a reciprocating state board of medical examiners; provided that on the face of such certificate a statement shall appear that it was issued pro forma, and without examination.

Id., § 10.

1635. Physicians of adjoining states; regulations as to practice in this state.—A physician who resides in an adjoining state, near the border of this state, shall be allowed the privilege of practicing in any county of this state into which his practice may extend without examination, provided that he holds a certificate of qualification from his own state board of medical examiners and causes said certificate to be placed on record in the office of the judge of probate of the county or counties in this state into which his practice extends, and provided that he shall not open an office or establish a place in this state at which calls may be left for him. A similar privilege shall be accorded to a licensed physician of any state who may be called into this state in consultation with a physician, except that such consulting physician shall not be required to place his certificate of qualification on record.

1636. Surgeons; assistant surgeons of United States may practice in this state.—The state board of medical examiners may issue to a surgeon or assistant surgeon of the United States army or navy, or of the United States public health and marine hospital service a certificate of qualification without examination, provided that such surgeon or assistant surgeon presents to the state board of medical examiners a commission or other satisfactory evidence showing that he is a medical officer in the United States army, navy, or marine hospital service, as the case may be, and if upon the face of the certificate of qualification so issued, it shall appear that the certificate was issued pro forma, and without examination. AUG. 9, 1907, P. 591, § 11.

1637. Revoking certificate to practice medicine.—The state board of medical examiners may revoke the certificate of qualification of any physician who uses intoxicating liquors, or drinks to such extent as to be thereby rendered unsafe or unreliable as a practitioner; or that of any physician who is guilty of grossly immoral or unprofessional conduct; or that of any physician who induces or aids in inducing a criminal abortion, or a criminal premature delivery in a woman; provided induction of abortion or the premature delivery, when done for the relief of a woman whose life appears to be in peril, shall not be deemed criminal, and whenever possible the attending physician shall, before performing such an operation, call into consultation with him one or more other physicians. IB., § 12.

1638. Investigation by board of examiners to revoke license. IB., § 13.
—Whenever complaint in writing is made to the state board of medical examiners that a physician in this state has committed any of the offenses named in the preceding section, it shall be the duty of said board to summon such physician to appear before it for investigation of the complaint, provided that thirty days' notice of the nature and specifications of the complaint, and of the time and place at which the investigation will be made, shall be given the physician against whom such complaint has been filed. When the investigation is held, which shall be conducted with as little publicity as possible, the person who files the complaint and the physician against whom the complaint has been filed shall have the right to introduce witnesses, or written testimony, or both, and shall also have the right to be heard in person, or by counsel, or both. For good reasons, such investigation may be adjourned from time to time.

1639. Revocation of license entered upon register of physicians in probate office.—When the state board of medical examiners decides to revoke the certificate of qualification of a physician, it shall notify such physician of the order of revo- IB., § 14.

cation and shall instruct the judge of probate of the county in which such physician resides to make an entry on the margin opposite to the recorded certificate of such physician to the effect that upon the order of the state board of medical examiners the certificate has been revoked, entering also date of revocation. Any physician whose certificate has been ordered revoked by the state board of medical examiners shall have the right of appeal to the state medical association, or to a court of competent jurisdiction, one or both, of which appeal such physician must give the state board of medical examiners notice within three days after having been informed of the decision of the board. When the state board of medical examiners has received notice of such appeal it shall await the result of the appeal before instructing the judge of probate to make the entry of revocation.

Aug. 9,
1907. P.
591, § 15.

1640. New certificate issued after one revoked.—The state board of medical examiners may issue, with or without re-examination, a new certificate of qualification to a physician whose certificate has been revoked, whenever it deems such course proper and just.

Ib., § 16.

1641. Examinations held at Montgomery.—All examinations under this chapter shall be conducted at Montgomery, and the state board of medical examiners shall fix the time at which examinations shall be held, and not less than two examinations shall be held annually.

Ib., § 17.

1642. Fees for examination; payment of.—The fee for an examination shall be ten dollars, which amount must be paid in advance of the examination, and to such person as the board may authorize to receipt therefor. A fee shall not be returned to an unsuccessful applicant, but such applicant shall be entitled to a second examination without paying an additional fee, provided such second examination is obtained within one year after the date of the first examination.

Ib., § 18.

1643. Compensation of board of examiners.—After defraying all expenses of holding an examination, such as furnishing blanks, paper, postage, certificates, etc., the services of supervisors, clerical help, etc., the remaining funds shall be equally divided among the ten members of the state board of medical examiners.

Ib., § 19.

1644. Compensation for services when certificate not recorded.—A physician whose certificate of qualification is not on record in the county in which he resides shall not be entitled to recover at law any compensation for services rendered in treating diseases of human beings.

Ib., § 20.

1645. Records of examinations kept by board.—The state board of medical examiners shall keep complete records of all

examinations held by it, giving the name, age, residence, college, and date of graduation (if a graduate) of such applicant examined, together with the results of such examination, which record shall be open to inspection. The said board of medical examiners shall also keep complete minutes of all of its proceedings, which minutes shall be so preserved as to be easily accessible should occasion arise for referring to them.

1646. Domestic and family remedies excepted from statute.—Nothing in this chapter shall prohibit the administration of domestic remedies in a family by any member thereof, or prohibit any person from rendering service to a sick or injured person in an emergency, provided that the person rendering such service does not pursue the occupation of a physician.

Aug. 9,
1907, p.
501, § 21.

CROSS REFERENCES.

PHYSICIANS, EXAMINATION OF (Political Code)1626-1646
PHYSICIANS, MEDICINES, ETC. (Criminal Code)..... 7564
PHYSIOLOGY (Political Code).....1685, 1746
PICTURES; OBSCENE (Criminal Code).....7427-7429
PILOTS AND PILOTAGE (Civil Code).....4927-4950,
 " (Criminal Code) 7811
PISTOLS (Political Code)..... 2361
PISTOLS; CONCEALED (Criminal Code)..... 6421-6425
PISTOLS, GUNS, FIREARMS, ETC. (Criminal Code).....6893-6897
PLANTS AND TREES (Horticulture) (Political Code).....811- 826
PLATS AND MAPS OF COUNTY (Political Code)..... 157
PLATS, MAPS, OR SURVEYS OF TOWNS (Civil Code).....6028-6034
PLAYING CARDS (Political Code)..... 2361
PLEADING AND PRACTICE (Civil Code).....5296-5383
 " (Criminal Code)7565-7574
PLEADING AND PRACTICE; ACTIONS AND PARTIES (Civil Code)
 2440-2506
PLEADING AND PRACTICE IN CHANCERY (Civil Code).....3087-3228
PLEAS (Civil Code).....5330-5337, 5383
 " (Criminal Code)7565-7573
PLEDGES (Civil Code).....3301-3305, 5290-5295
POINTING WEAPONS AT ANOTHER (Criminal Code)..... 6893
POISONING SPRINGS, WELLS, RESERVOIRS, ETC (Criminal Code)..
 7575, 7874
POISONS; PENAL STATUTES CONCERNING (Criminal Code).....7575-7578
POLICE COMMISSION (Political Code)1231, 1232
POLICE REGULATIONS (Political Code)839 et seq.
POLITICAL CAMPAIGNS; CONTRIBUTIONS TO (Criminal Code).... 6630
POLITICAL ORGANIZATION OF STATE (Political Code).....121 et seq.
POLITICAL PARTIES (Political Code)347, 352, 372
POLLING JURY (Criminal Code).....7315-7317
POLLS (Political Code)396, 397
POLL-TAX (Political Code)2074-2093
POLLUTING RUNNING STREAMS (Criminal Code).....7575, 7874
POLLUTING WATERS (Criminal Code).....7863-7873

POLLUTING WATER SUPPLY OF CITY OR TOWN (Criminal Code).....	7875
POLYGAMY (Criminal Code).....	6389-6390
POLYTECHNIC INSTITUTE (Political Code)	1899-1911
POOLING (Civil Code).....	5497
POOLS, MONOPOLIES, TRUSTS, AND COMBINES (Criminal Code)	
	7000, 7579-7582
POOR (Political Code).....	1598 et seq., 1608-1617
POSSE COMITATUS (Criminal Code).....	7518, 6271
POSSESSION (Civil Code)	2830
POSTHUMOUS CHILD (Civil Code).....	3402, 3759
POTATOES (Political Code)	2439
POUNDS (Civil Code).....	5881-5898
POWDER (Political Code).....	1453
" (Criminal Code)	7583
POWDER MAGAZINES; EXPLOSIVES (Political Code).....	1271
POWER OF ATTORNEY (Civil Code).....	3360, 3440, 3818
POWER COMPANIES (Civil Code).....	3627-3637
POWERS (Political Code).....	3
" (Civil Code)	4896, 3423
POWERS TO CONVEY, ETC. (Civil Code).....	3422-3440
PRACTICE AND PLEADING (Civil Code).....	5296-5383
PRACTICE AND PLEADING IN CHANCERY (Civil Code).....	3087-3228
PRACTICE OF LAW (Civil Code)	2972 et seq.
PREACHERS; CONFERENCE OF (Civil Code).....	3593-3596
PRECINCTS (Political Code).....	339- 346
PREGNANCY (Civil Code).....	3794, 3807
PRELIMINARY PROCEEDINGS (Criminal Code).....	7584-7615
PRESENTMENT OF BILLS AND NOTES (Civil Code).....	5092-5099
PRESIDENTIAL ELECTORS (Political Code).....	446-451, 331- 332
PRESIDENT OF SENATE (Political Code).....	916
PRICES CURRENT (Civil Code).....	3977
PRIMARY ELECTIONS (Political Code).....	512- 537
" (Criminal Code)	6818-6825
PRINCIPAL (Civil Code).....	5405 et seq.
PRINCIPALS AND ACCESSORIES (Criminal Code).....	6219, 6220
PRINCIPAL AND SURETY (Civil Code).....	5384-5409
PRINTING (Political Code)	1647-1677
" (Civil Code)	5181-5192
PRISONERS (Civil Code)	5872
" (Criminal Code)	6479-6619
PRIVATE ROADS (Civil Code).....	5841-5843
PRIVATE SECRETARY (Political Code).....	555 et seq.
PRIVILEGE TAX (Political Code)	2361, 2362
PRIVILEGE TAX IN MUNICIPALITIES (Political Code).....	1338-1347
PRIZE FIGHTING (Criminal Code)	7616-7618
PROBABLE CAUSE (Criminal Code).....	6703
PROBATE CLERK (Civil Court).....	5430-5432
PROBATE COURTS (Civil Code).....	5410-5442
PROCEDENDO (Civil Code).....	4726, 4727
PROCESS (Civil Code)	3056, 3218, 5303-5306
" (Criminal Code)	7470, 7471
PROCESS; OBSTRUCTING (Criminal Code).....	7708-7711
PRODUCTION OF WRITINGS AS EVIDENCE (Civil Code).....	4058, 4059
PROFANE LANGUAGE (Criminal Code).....	6217
PROFERT (Civil Code).....	5326
PROHIBITION; LOCAL OPTION (Political Code).....	492- 511
PROHIBITION LAW; VIOLATIONS OF (Criminal Code).....	7357 et seq.

PROHIBITION; WRIT OF (Civil Code).....4864-4872
PROMISES (Civil Code).....4835, 4840, 2503
PROMISSORY NOTES (Civil Code).....4958-5161
PROPERTY (Civil Code)4196 et seq., 3860-3909
PROPERTY; OBTAINING OR DISPOSING OF FRAUDULENTLY
(Criminal Code)6920-6934
PROSECUTING ATTORNEY (Criminal Code).....7778-7804
PROSTITUTES (Criminal Code) 7843
PROSTITUTION (Criminal Code)7619, 6211
PROSTITUTION; HOUSES OF (Political Code)..... 1294
PROTEST (Civil Code).....5166 et seq., 5145 et seq.
PROTEST OF BILLS AND NOTES (Civil Code).....5100-5108
PUBLICATIONS (Civil Code)5181-5192, 3101 et seq.
PUBLIC DRUNKENNESS (Criminal Code)..... 6770
PUBLIC HEALTH (Political Code).....734 et seq.
PUBLIC IMPROVEMENTS; MUNICIPAL (Political Code).....1359-1420
PUBLIC LANDS (Civil Code).....3334-3337, 3739 et seq.
PUBLIC MONEY (Political Code).....552, 624
PUBLIC OFFENSES (Criminal Code).....6754-6756, 7129
PUBLIC OFFICERS; TIME OF ELECTION (Political Code).....331- 338

CHAPTER 40.

PUBLIC PRINTING. 1647-1677.

SECTION.

- 1647. Public printing and binding to be done under contract.
- 1648. Classification of public printing and binding.
- 1649. Secretary of state advertises for proposals biennially.
- 1650. Proposals must be in writing; bonds.
- 1651. Maximum rate for printing and binding.
- 1652. Proposals opened and accepted or rejected.
- 1653. Contract made in pursuance of accepted proposal.
- 1654. Contract must be approved by the governor, state auditor, and state treasurer.
- 1655. Contract declared forfeited for cause; new contract.
- 1656. Venue of actions on contract.
- 1657. Where printing must be done.
- 1658. Paper and parchment for blanks.
- 1659. Department reports; when to be made; how printed.
- 1660. Secretary of state to contract for publication of general and public laws in a newspaper.
- 1661. Laws to be published and distributed.

SECTION.

- 1662. Contract to be approved by the governor, state auditor, and state treasurer; bond.
- 1663. Preparation of acts and joint resolutions for printing.
- 1664. Acts and joint resolutions in two volumes; contents of.
- 1665. Acts certified; marginal notes.
- 1666. Journals; how prepared.
- 1667. Acts and journals delivered to printer.
- 1668. Penalty for not delivering copies of the acts to printer.
- 1669. Style of printing and quality of paper.
- 1670. Revenue laws to be printed separately.
- 1671. Laws and journals, when to be completed by printer.
- 1672. Ten copies of bills, etc., to be printed and delivered to secretary of state.
- 1673. Pay for printing; how made.
- 1674. Payment for printing laws and journals.
- 1675. Payment for printing revenue laws.
- 1676. Payments for printing done for the commissioner of agriculture and industries and the railroad commissioners.
- 1677. Matters ordered to be printed by both houses.

(r.c.c.)

1647. (3385) Public printing and binding to be done under contract.—The acts and journals of the legislature, the revenue laws of each session of the legislature in separate pamphlets, the report of the decisions of the supreme court, the annual or biennial reports of the state auditor, state treasurer, attorney-general, superintendent of education, commissioner of agriculture and industries, railroad commissioners, inspectors of convicts, adjutant-general, state geologist, state board of health, the board of trustees of the University of Alabama, of the Alabama Polytechnic Institute, of the Alabama Schools for the Deaf and Blind, of the Alabama Insane Hospital, all handbooks and pamphlets which the commissioner of agriculture and industries is authorized by law to publish, all blanks, bulletins, circulars, notices, messages, and forms used in the office of and ordered by the governor, secretary of state, state auditor,

state treasurer, attorney-general, adjutant-general, superintendent of education, clerk of the supreme court, examiner of public accounts, commissioner of agriculture and industries, railroad commissioners, and inspectors of convicts, and all bills, papers, documents, and reports ordered by and for the use of the legislature, or either house thereof, while in session, shall be printed, or printed and bound, as the case may be, and the records of the supreme court shall be bound as ordered by the clerk of the court, under the contract as provided in this chapter; and no printing or binding for the state shall be done under contracts made in pursuance of the provisions of this chapter other than such as is covered and provided for by this chapter.

(Aikin's Digest, pp. 302-304, § 3; Clay's Digest, pp. 368-371. This chapter is based upon act of Feb. 28, 1889, p. 121, § 1.)

1648. (3386) Classification of public printing and binding. Amended
 —The printing and binding authorized in the preceding section, for the purposes of the contracts provided in this chapter, shall be divided into four classes, as follows: Feb. 23, 1899, p. 40.

Class 1. The reports of the decisions of the supreme court.

Class 2. The acts and journals of the legislature and the revenue laws of each session of the legislature in separate pamphlets.

Class 3. Annual or biennial reports of the state auditor, state treasurer, attorney-general, superintendent of education, commissioner of agriculture and industries, railroad commissioners, inspector of convicts, adjutant-general, state geologist, state board of health, the board of trustees of the University of Alabama, the Alabama Polytechnic Institute, the Insane Hospitals, the Alabama Schools for the Deaf and Blind, all handbooks, pamphlets, or bulletins which the commissioner of agriculture and industries is or may be authorized by law to publish, and all other pamphlets or documents of a public nature, the publication of which is ordered by the governor in pursuance of law.

Class 4. All messages of the governor to the legislature, all bills, documents, and reports ordered by and for the use of the legislature or either house thereof while in session, all blanks, circulars, notices, and forms used in the office of or ordered by the governor, secretary of state, state auditor, state treasurer, attorney-general, superintendent of education, clerk of the supreme court, examiner of public accounts, commissioner of agriculture and industries, railroad commissioner, and inspector of convicts, and all blanks and forms ordered by and for the use of the secretary of the senate and clerk of the house of representatives, and binding the records of the supreme court.

Amended
Feb. 23,
1899, p. 40.

1649. (3387) Secretary of state advertises for proposals biennially.—It shall be the duty of the secretary of state, biennially, from and after the first day of August, 1908, to advertise for ten days in not less than two nor more than four daily papers published in the state for proposals to do the printing and binding for the state for the term of two years, commencing on the first day of October next thereafter.

1650. (3388) Proposals must be in writing; bonds.—All proposals for the printing and binding for the state must be in writing, signed by the person, firm, or corporation making the proposal, and must be accompanied by the bond of such person, firm, or corporation, with two or more sufficient sureties, who shall be resident citizens of this state, in the penalty of twenty-five hundred dollars, if the proposal is to do the printing and binding specified in class 1, twenty-five hundred dollars if to do that specified in class 2, five thousand dollars if to do that specified in class 3, and twenty-five hundred dollars if to do that specified in class 4, payable in every instance to the State of Alabama, and conditioned for the faithful performance of the contract made on the acceptance of the proposal. The proposals with the bonds must be sealed, indorsed, "Proposals for Class — (specifying the class the proposal is for) of public printing," and delivered to the secretary of state by mail or otherwise on or before the twentieth day of the month in which the advertisement is made.

Amended
Feb. 23,
1901, p.
155.

1651. (3389) Maximum rate for printing and binding.—The following shall be the maximum rates allowed for printing and binding: For every page of the acts and joint resolutions, two dollars; for binding every copy of the acts, twenty cents a copy; for every page of the journals and revenue laws, one dollar; for binding the journals, twenty cents a copy; for every copy of any volume of the supreme court reports, printed and bound as required by this chapter in editions not exceeding one thousand five hundred copies, one dollar and sixty cents; for blanks printed on paper, thirty cents a quire of twenty-four full sheets; for blanks printed on parchment, thirty cents for each twenty-four sheets; for printing done for the officers, commissioners, and boards, and for the legislature, or either house thereof, forty cents a thousand ems for composition of plain matter; for rule and figure work, seventy-five cents a thousand ems; for press work, including paper per token, common octavo forms, seventy-five cents if on machine finished paper, weighing forty pounds to the ream; provided, the secretary of state may, when he deems it advisable, have used on any job a paper of heavier weight and superior quality, in which event he must certify to the state auditor, in addition to the contract price for forty-pound machine-fin-

ished paper, an amount not to exceed six cents per pound for each additional pound used on such job; and if super-calendered paper is ordered and used in any job, he must certify to the state auditor an additional amount not to exceed two and one-half cents per pound in excess of what machine-finished paper of the same weight per ream would have cost the state under the contract; folding reports, pamphlets, bills, and other documents, eight cents a hundred copies on each signature, distinct tables to be considered signatures; stitching reports, pamphlets, bills, and other documents, ten cents a hundred copies; binding the records of the supreme court and manuscript opinions of the supreme court, one dollar and fifty cents a volume; no proposals for doing printing and binding at greater rates than those fixed in this section shall be considered, but all bids must be at the rates herein fixed, or at a certain per cent below them; and in counting blanks as many as can be printed on a sheet shall be considered as one sheet only and no more.

1652. (3390) Proposals opened and accepted or rejected.—The secretary of state must, after the twentieth and before the thirtieth day of the month in which bids are received, open the same in the presence of the governor, state auditor, state treasurer, and commissioner of agriculture and industries, or any two of them, if the others are unable to attend; and the secretary of state and other officers named, any three concurring, shall select the lowest responsible bidder, either for the classes separately or for the classes combined, as may be to the interest of the state; but no bid unaccompanied by a bond as required in this chapter shall be considered. If in the judgment of a majority of the officers present the public interest can be subserved best thereby, all the proposals, or all for either class, may be rejected, whereupon the secretary of state shall advertise again, in all respects as in the first instance, for proposals to do the public printing and binding, or that class of it the bids for which were rejected; and upon the coming in of the new bids, they shall be considered, passed on, and accepted or rejected, and in the last event, advertisement made again, as provided in this section with respect to the proposals first made.

1653. (3391) Contract made in pursuance of accepted proposal.—When any proposal has been accepted the secretary of state must indorse the fact and the date of its acceptance thereon and give notice thereof to the person, firm, or corporation whose proposal has been accepted; and thereupon the secretary of state, in the name of the state, and such person, firm, or corporation, shall enter into contract in writing for the printing and binding covered by the accepted proposal

for the time and in the manner prescribed by law on the terms expressed in the proposal. If such person, firm, or corporation fails for ten days to enter into the contract, the officers named in the preceding section may select the next lowest bidder for the printing and binding as to which the failure has occurred, and the person, firm, or corporation failing and the sureties on his bond shall be jointly and severally liable to the state for all damages that may result from such failure, including the increased cost of the printing and binding, or either, for the term under any contract afterwards made and the expenses incident to the making of any subsequent contract.

1654. (3392) Contract must be approved by the governor, state auditor, and state treasurer.—All contracts for public printing and binding, and all bonds to secure the faithful performance of the same, shall be approved by the governor, state auditor, and state treasurer, and a new or additional bond may be required whenever they deem it necessary; but the giving of such new or additional bond shall in nowise affect the liability of the sureties on the original or any existing bond; and all such bonds must be filed and recorded in the office of the secretary of state.

1655. (3393) Contract declared forfeited for cause; new contract.—Any contract made under the provisions of this chapter may be declared forfeited by a majority of the officers therein named for the failure or neglect of the contractor to execute the same faithfully, promptly, and skillfully, and upon such forfeiture the printing and binding embraced in said contract shall be relet after advertisement in all respects as in the original contract; and any contractor who fails or neglects to execute his contract faithfully, promptly, and skillfully, and the sureties on his bond, shall be jointly and severally liable to the state for all damages which result from such failure, and in case the contract is declared forfeited as herein provided, such damages shall include the increased cost of the printing and binding, or either, under any subsequent contract for the term covered by the original contract, and all expenses incident to reletting.

1656. (3394) Venue of actions on contract.—Actions against contractors for public printing and binding, and the sureties on their bonds, either or both, may be prosecuted in the courts of Montgomery county without regard to the residence of the defendants.

1657. (3395) Where printing must be done.—The printing and binding embraced in class four must be done at the seat of government, and all other printing and binding enumerated in classes one, two, and three must be done within the State

of Alabama; but, if the owners of printing establishments in this state should at any time combine or agree together for the purpose of preventing competition for bids under this chapter, then in such event this chapter shall not be binding and the printing of the state may be let to the lowest bidder, whether such bidder is a resident of this state or not.

1658. (3397) Paper and parchment for blanks.—The parchment for blanks, when it may be necessary to use that material, shall be furnished by the state; and all blanks provided for by this chapter shall be printed on good paper, except where parchment is used, of such size and with such type as the officer ordering the same may direct.

1659. (3398) Department reports; when to be made; how printed.—All reports of departments, officers, commissioners, boards, and bureaus, authorized to be printed by this chapter, shall be made to the governor on or before the tenth day of October, annually or biennially, as may be required by law, for the annual or biennial period ending on September thirtieth theretofore; and the governor shall have them, or such parts thereof as he may deem necessary, printed in such numbers as the public interest may in his judgment require. One-half of the edition in each instance shall be reserved for the use of the legislature, and the remainder for distribution as prescribed by law. The governor shall have twenty-five copies of each of the reports provided for in this chapter bound in calf for distribution among the several executive officers of the state and the state library.

1660. (3399) Secretary of state to contract for publication of general and public laws in a newspaper.—The secretary of state, in each October next before the meeting of the legislature, by circulars addressed to each daily newspaper in this state, shall invite bids for publishing in such paper all the laws of a general and public nature having effect in every county and upon all the people of the state, which may be enacted by the next legislature, and may accept the proposal of the lowest and best responsible bidder for making such publication and enter into contract with such bidder against the meeting of the legislature. In determining which bid to accept the secretary of state may take into consideration the circulation of the newspaper published by the bidder; but no bid in excess of seventy-five cents a square shall be considered. (r. c. c.)

1661. (3400) Laws to be published and distributed.—The secretary of state must furnish to the contractor copies of all laws provided for in the preceding section within five days after their approval by the governor, or after their passage over his veto, as the case may be, marked "official" and in- (r. c. c.)

dorsed with his name and style of office. As soon as practicable after receiving such copies, the contractor shall publish them in the daily editions of the newspaper, charging therefor as for one insertion only, at the contract rate, and the contractor shall furnish by mail or otherwise, each paper containing any of such laws, to each executive officer of the state and to the marshal and librarian of the supreme court, state tax commissioners, state game and fish commissioner, and to each judge of the supreme, circuit, city, and probate courts, the supernumerary judge, and to each chancellor, solicitor, county superintendent of education, register in chancery, sheriff, clerk of court, tax assessor, tax collector, and county treasurer in the state, and to each member of the legislature, free of charge.

1662. (3401) Contract to be approved by the governor, state auditor, and state treasurer; bond.—The contract for the publication of the general and public laws in a newspaper must be approved by the governor, state auditor, and state treasurer, and the contractor shall give bond in the sum of five thousand dollars, payable to the State of Alabama, and conditioned for the faithful performance of his contract, which bond must be approved by the governor, state auditor, and state treasurer, and filed and recorded in the office of the secretary of state.

1663. (3402) (214) (118) (110) (74) Preparation of acts and joint resolutions for printing.—The secretary of state must, during and after each session of the legislature, prepare for publication fair copies of the acts and joint resolutions of the legislature; and the numbers of the bills passed by the two houses of the legislature, as the same are placed thereon by the secretary and clerk thereof, shall be retained thereon whenever the same are printed, and when published in the volumes of session acts.

As amended,
Feb.
23, 1899,
p. 40.

1664. (3403) Acts and joint resolutions in two volumes; contents of.—The acts and joint resolutions of the legislature shall be printed and bound in two volumes, all of the laws of a local nature to be included in one volume; and all those of a general nature, the messages of the governor, and the legal rate of interest allowed by the various states of the Union, to be included in the other volume. Each volume shall contain the names and postoffice addresses of the heads of the various departments of the state government, and of the officers of the legislature, and the secretary of state shall have prepared and printed with each volume a full index to the contents of the same.

1665. (3404) Acts certified; marginal notes.—The title-page of each volume of the acts and joint resolutions shall have printed thereon, in addition to the other matter, the

following certificate: "I, _____, secretary of state of the State of Alabama, do hereby certify that this book containing the acts and joint resolutions passed at the session of the legislature of Alabama, is published by the authority of the State of Alabama. _____, secretary of state." Marginal notes shall be printed adjacent to each section, stating its substance.

1666. (3405) (216) (124) (112) (76) **Journals, how prepared.**—The journals must be prepared with a title-page and index, and must be substantially half-bound and lettered.

1667. (3406) **Acts and journals delivered to printer.**—The secretary of state shall furnish to the printer copies of all acts and joint resolutions of the legislature within ten days after they are deposited in his office, with marginal notes as prescribed, and with his certificate that he has compared such copies with the original acts, and joint resolutions, and that they are correct copies.

As amend-
ed, Feb.
28, 1890,
p. 43.

1668. (3407) (218) (126) (114) **Penalty for not delivering copies of the acts to printer.**—For each day's delay of the secretary of state in furnishing the public printer the copies of the acts and joint resolutions of the legislature at the times respectively prescribed for their delivery, he shall forfeit the sum of twenty dollars, to be deducted by the state auditor from his salary first accruing after the times limited; and the state auditor must not pay to the secretary of state any salary accruing next after the period when such acts should by law be delivered to the public printer without first having received and filed in his office, as a voucher, the certificate of the governor that such copies of the acts and joint resolutions have been delivered by the secretary of state to the public printer as and in the time prescribed by law, or without having first deducted the forfeiture herein required.

1669. (3408) (219) (127) (115) (78) **Style of printing and quality of paper.**—The acts, resolutions, and journals must be printed on paper weighing at least forty pounds to the ream, double medium, of royal octavo pages, with type of the denomination of small pica, and the marginal notes with minion; each page must contain not less than forty-five nor more than fifty lines; the heads or titles of the index in capitals, the other part in small pica; the whole to correspond in print, paper, and execution with the Code of Alabama.

1670. (3409) (220) (128) (116) (79) **Revenue laws to be printed separately.**—The revenue laws passed at each session are not only to be printed in the acts and joint resolutions, but must be separately prepared for publication, and five hundred copies printed on the same paper, of the same size, and with the same type as the acts.

As amend-
ed, Feb.
23, 1890, p.
43, § 6.
(r. o. c.)

1671. (3410) (224) (132) (120) (83) **Laws and journals, when to be completed by printer.**—The printer must, within forty days after being furnished with copies of the acts and joint resolutions, print on paper, type, etc., as herein provided, and deliver within forty days after receiving the last act, to the secretary of state, five thousand copies of the volume containing the general laws, and two thousand copies of the volume containing the local laws, with marginal notes and index, stitched, half-bound, and lettered; and within thirty-five days thereafter must deliver to such officer eight hundred copies of the journals of each house, with index, stitched, half-bound, and lettered, and twenty-five copies of the general and local acts shall be bound in calf for the use of the supreme court.

1672. (3411) (225) (133) (121) **Ten copies of bills, etc., to be printed and delivered to secretary of state.**—When any bill, joint resolution, or memorial of a general nature is ordered to be printed by either house of the legislature, the public printer must print ten additional copies of each and deliver them to the secretary of state.

1673. (3412) (227) (135) (130) (91) **Pay for printing, how made.**—For all printing done by order of either house of the legislature, or for the executive or state officers, the public printer must procure a certified copy of such order from the secretary of the senate, clerk of the house, or from the officer ordering the work, upon the presentation of which to the state auditor and the production of a copy of the work ordered, he must issue his warrant for the payment of the same according to the prices specified in the contract.

1674. (3413) (228) (136) (131) (92) **Payment for printing laws and journals.**—Upon the delivery of the requisite number of the laws and journals, within the time prescribed, and executed in all respects as herein provided, the secretary of state must give his receipt for the same, upon which the state auditor must issue his warrant for payment.

1675. (3414) (229) (137) (132) (93) **Payment for printing revenue laws.**—Upon the delivery of the requisite number of the revenue laws, printed as herein provided, to the state auditor, he must issue his warrant for payment.

1676. (3415) **Payments for printing done for the commissioner of agriculture and industries and the railroad commissioners.**—Payment for all printing done for or on account of the department of agriculture and industries shall be made out of the funds of that department in the same manner as other expenses of that department are paid. Payment for printing for the railroad commission shall be made out of the funds arising from the license tax on railroads for the support

of that commission, on the certificate of the president of the commission to the secretary of state that the work has been done on his order, or the order of the governor, if it be the annual report, and the certificate of the secretary of state to the state auditor setting forth the amount due for the work under the contract; and payment for all other printing authorized by this chapter shall be made out of the general annual appropriation for that purpose.

1677. (3416) (231) (139) (134) Matters ordered to be printed by both houses.—When any matter is ordered to be printed by both houses, charge must be made for the same in all respects as though ordered by one house only, except in cases where ten days intervene between the times of the respective orders.

(Feb. 8, 1858, p. 33, § 2; Feb. 23, 1866, p. 74, § 3.) Constitutional provision of 1875 not legislative or self-executing; requires statute to make it such; printing of agricultural handbook held not to be within purview of former statute.—*Brown v. Seay*, 86 Ala. 122 (5 So. 216).

CROSS REFERENCES.

PUBLIC PRINTING (Political Code).....	1647-1677
PUBLIC ROADS (Civil Code)	5765-5843
“ (Criminal Code)	7395, 7727-7744
PUBLIC SCHOOLS (Political Code)	1678 et seq.
PUBLIC USES (Civil Code).....	3860-3909
PUBLIC UTILITIES (Political Code).....	1421-1435
PUBLIC WORKS; BOARD OF (Political Code).....	1233-1250
PUNISHMENTS; JUDGMENTS AND SENTENCES (Criminal Code).....	7620-7654
PUPILS (Political Code)	1755-1757
PURCHASE MONEY (Civil Code)	5160
QUAKERS (Civil Code).....	4883
QUARANTINE AND HEALTH LAWS (Political Code).....	698- 792
“ (Criminal Code)	7049-7083
QUARTERMASTER (Political Code).....	934, 936, 994
QUARTERMASTER-GENERAL (Political Code).....	930, 931
QUARRYING COMPANY (Civil Code).....	3481
QUASH; MOTION TO (Civil Code).....	4721, 5366
QUIA TIMET; BILLS FOR (Civil Code)	5443-5449
QUIETING TITLE (Civil Code)	5443-5449
QUI TAM ACTIONS (Civil Code)	2474, 4840
QUO WARRANTO; ACTIONS IN, NATURE OF (Civil Code).....	5450-5472
RACE TRACK (Political Code).....	2361
RACING (Criminal Code).....	7728, 7808
RACING HORSES; BETTING ON (Criminal Code).....	7002-7005
RAILROAD COMMISSION (Civil Code).....	5632-5725
RAILROADS (Civil Code).....	5473-5631
“ (Criminal Code)	7655-7695
RAILROAD LABORERS (Civil Code).....	4794-4805
RAILROAD TICKET BROKER (Political Code).....	2361

RAILROAD TRACKS IN TOWNS AND CITIES (Political Code).....	1296-1301
RAMS (Civil Code).....	4810-4813
RANGE COMPANY (Political Code).....	2361
RAPE (Criminal Code).....	7696-7702
RATES; MAXIMUM (Railroads) (Civil Code).....	5565-5592
RATE REGULATION (Railroads) (Civil Code).....	5520-5563
REAL ACTIONS (Civil Code).....	3838-3858, 5307
REAL ESTATE AGENCY (Political Code).....	2361
REBATES, DISCOUNTS, DRAWBACKS, ETC. (Criminal Code)....	7703-7707
RECANTATION (Civil Code).....	3749, 3752
RECEIPTS (Civil Code).....	6131-6136, 3973, 3974
RECEIVERS (Civil Code).....	5726-5731, 2840
RECEIVING EMBEZZLED PROPERTY (Criminal Code).....	6841, 6842
RECEIVING STOLEN PROPERTY (Criminal Code).....	7329
RECORDERS' COURTS (Political Code).....	1213-1229
RECORDING DEEDS, ETC. (Civil Code).....	3367-3395
RECORDING SECRETARY (Political Code).....	556, 557
RECORDS (Civil Code).....	3083, 3273, 5733, 5734
RECORDS, JUDICIAL (Civil Code)	5732-5745
RECOUPMENT AND SET-OFF (Civil Code)	5858-5865, 3865, 4653
RECTIFIERS (Political Code).....	2361
REDEMPTION (Political Code).....	2313-2323
" (Civil Code)	5746-5759
REFERENCES (Civil Code)	3157-3161
REFORMATORY (Political Code)	1954-1970
REFUNDING TAXES (Political Code)	2340-2347
REFUSING TO AID OFFICER (Criminal Code).....	7708-7711
REGISTER IN CHANCERY (Civil Code).....	3070-3086, 6054 et seq.
REGISTRAR (Political Code).....	300 et seq.
REGISTRATION (Political Code)	300 et seq.
" (Civil Code)	3368-3381
REGISTRATION OF DEEDS, ETC. (Civil Code).....	3367-3395
REGISTRATION OF VOTERS (Political Code).....	300-330
REHEARING AND NEW TRIAL (Civil Code).....	5371-5381
RELATIONSHIP (Civil Code).....	3757, 4877, 4878
RELATOR (Civil Code).....	5459
RELEASE (Civil Code).....	3974, 3753, 6049
RELIGION (Civil Code)	3613-3618, 4881-4883
RELIGIOUS SOCIETIES (Civil Code).....	3613-3618, 3622-3626
RELIGIOUS WORSHIP; DISTURBING (Criminal Code).....	6767-6769
RELINQUISHMENT (Civil Code).....	3818-3823
REMAINDERS (Civil Code)	3420, 3385 et seq.
REMEDIAL WRITS (Civil Code).....	4864-4872
REMEDY (Political Code).....	10
REMOVAL OF PRISONERS (Criminal Code).....	6638, 6642-6644
RENTS (Civil Code).....	4731-4753, 3855
RENTING ON SHARES (Civil Code).....	4742-4743
REPEAL (Political Code).....	10
REPLEVIN (Detinue) (Civil Code).....	3778-3792
REPLEVY OF PROPERTY ATTACHED (Civil Code).....	2955-2957
REPLICATION (Civil Code).....	5338, 3116
REPORTER OF SUPREME COURT (Civil Code).....	6007-6015, 5995-6006
REPORTS OF SUPREME COURT (Civil Code).....	6007-6015
REPRESENTATION (Civil Code).....	4292
REPRESENTATIVES (Political Code).....	900-928
REPRIEVES (Criminal Code).....	7510-7516, 7653, 7654
REQUISITION FOR FELONS (Criminal Code).....	6939-6953

RESCUE (Criminal Code)..... 6870

RESIDENCE (Political Code)290, 295

RESIGNATION (Political Code)1556-1568

“ (Civil Code) 4452

RESISTING PROCESS (Criminal Code).....7708-7711

RESOLUTIONS OF MUNICIPALITIES (Political Code).....1251-1259

RESTAURANT KEEPERS' LIEN (Civil Code).....4827, 4828

RESTITUTION (Civil Code).....4269, 3784

RETAILERS; LICENSES (Political Code)..... 2361

“ (Civil Code).....5760-5764

RETURNING-OFFICER OF ELECTION (Political Code)... 414, 418, 419, 347

RETURN OF PROCESS (Civil Code).....5301-5320, 4097-4133

REVENUE AND TAXATION (Political Code)2060-2412

“ **OFFENSES CONCERNING** (Criminal Code) 7712-7720

REVENUE; MUNICIPALITIES (Political Code).....1311-1337

REVERSION (Civil Code)3385, 3389

REVIEW; BILL OF (Civil Code).....3177, 3178

REVIVAL OF ACTION (Civil Code).....2495-2501

REVIVOR (Civil Code).....4147-4155, 4685, 4686, 4868-4871

REWARD (Criminal Code).....6542, 6939

RIGHT OF PROPERTY (Civil Code).....6039-6049

RIGHT OF WAY (Civil Code).....3860-3909

RIOTS, ROUTS, AND UNLAWFUL ASSEMBLIES (Criminal Code)....

7721-7726, 7400, 7401

RIPARIAN RIGHTS (Civil Code).....6143-6150

“ (Criminal Code)7863-7875

RIVERS, STREAMS, ETC.; OFFENSES CONCERNING (Criminal Code)

7863-7875

RIVERS, WATERCOURSES, ETC. (Civil Code).....6143-6150

ROAD; LAW OF (Civil Code) 5840

ROADS; PRIVATE (Civil Code).....5841-5843

ROADS; PUBLIC (Civil Code).....5765-5843

“ (Criminal Code)7727-7745, 7395

ROBBERY (Criminal Code).....7746-7749

ROLLING-STOCK (Civil Code).....3393-3395

RULES (Civil Code).....3227, 3228

RULES OF COURT (Last Part of Civil Code).

RULE IN SHELLEY'S CASE (Civil Code) 3403

SABBATH; VIOLATIONS OF (Criminal Code).....7814-7819

SAILORS (Navigation) (Civil Code).....4901-4957

SALARIES (Political Code)1569-1571

SALES OF ESTATES OF DECEDANTS (Civil Code).....2602-2665

SALE OF FARM PRODUCTS; REGULATED (Criminal Code)....6878, 6879

SALES (Civil Code)3334-3337, 5222-5231, 5239-5252

SALES; FRAUDULENT OR VOID (Civil Code).....4287-4295, 3334-3346

SALES IN CHANCERY (Civil Code)3223-3226

SALESWOMEN AND FEMALE CLERKS (Criminal Code)..... 6857

SALT LANDS AND SPRINGS (Political Code).....883- 887

SALVAGE (Civil Code).....5844-5857

SAMPLING COTTON (Civil Code).....3730-3734

SANITARY REGULATIONS (Political Code)698-792, 1302-1308

SATISFACTION (Civil Code).....4141, 4142, 4898, 4900

SCALES, WEIGHTS, MEASURES, ETC. (Political Code)1270, 2439

SCALPERS (Political Code)..... 2361

SCHOLASTIC PERIODS (Political Code)..... 1759

SCHOOL CENSUS (Political Code)1717, 1718

SCHOOL CHILDREN ELIGIBLE (Political Code)1755-1757

SCHOOL DISTRICTS—SCHOOLS.

Public School Fund.

SCHOOL DISTRICTS (Political Code)	1691-1696
SCHOOL FUNDS (Political Code)	1678-1688, 1760-1780
SCHOOL HOUSES (Political Code)	1975-1993
SCHOOL LANDS (Political Code).....	1781 et seq.

CHAPTER 41.

SCHOOLS.

- ARTICLE 1. PUBLIC SCHOOL FUND. 1678-1679.
 ARTICLE 2. OFFICERS AND BOARDS OF PUBLIC SCHOOLS. 1680.
 ARTICLE 3. SUPERINTENDENT OF EDUCATION. 1681-1688.
 ARTICLE 4. TOWNSHIPS ABOLISHED. 1689.
 ARTICLE 5. TOWNSHIPS AND SCHOOL DISTRICTS INCORPORATED. 1690.
 ARTICLE 6. SCHOOL DISTRICTS AND RE-DISTRICTING BOARDS, HOW CREATED. 1691-1696.
 ARTICLE 7. DISTRICT TRUSTEES, ELECTION, POWERS, AND DUTIES OF. 1697-1701.
 ARTICLE 8. COUNTY SUPERINTENDENTS OF EDUCATION. 1702-1711.
 ARTICLE 9. COUNTY BOARDS OF EDUCATION, ELECTION, POWERS, AND DUTIES OF. 1712-1716.
 ARTICLE 10. ENUMERATION OR CENSUS OF SCHOOL CHILDREN. 1717-1718.
 ARTICLE 11. TEACHERS, QUALIFICATIONS, LICENSE, POWERS, AND DUTIES OF. 1719-1750.
 ARTICLE 12. TEACHERS' INSTITUTES. 1751-1754.
 ARTICLE 13. CHILDREN AND PUPILS ELIGIBLE TO PUBLIC SCHOOLS. 1755-1757.
 ARTICLE 14. EXAMINATIONS IN PUBLIC SCHOOLS. 1758.
 ARTICLE 15. SCHOLASTIC PERIODS. 1759.
 ARTICLE 16. APPORTIONMENT OF SCHOOL FUND; DISBURSEMENT. 1760-1780.
 ARTICLE 17. SCHOOL LANDS, LEASE AND SALE. 1781-1804.
 ARTICLE 18. TEXT-BOOK COMMISSION, MEMBERS, APPOINTMENT OF. 1805-1850.
 ARTICLE 19. ELECTION FOR SPECIAL TAX FOR PUBLIC SCHOOLS. 1851-1860.
 ARTICLE 20. HIGH SCHOOLS FOR COUNTIES. 1861-1868.
 ARTICLE 21. UNIVERSITY OF ALABAMA. 1869-1892.
 ARTICLE 22. CEMENT LABORATORY. 1893.
 ARTICLE 23. SUMMER SCHOOL. 1894-1898.
 ARTICLE 24. ALABAMA POLYTECHNIC INSTITUTE. 1899-1911.
 ARTICLE 25. ALABAMA INDUSTRIAL SCHOOL FOR GIRLS. 1912-1932.
 ARTICLE 26. ALABAMA INSTITUTE FOR THE DEAF. 1933-1942.
 ARTICLE 27. ALABAMA ACADEMY FOR THE BLIND. 1943-1948.
 ARTICLE 28. ALABAMA SCHOOL FOR NEGRO DEAF MUTES AND BLIND. 1949-1953.
 ARTICLE 29. REFORMATORY AND INDUSTRIAL SCHOOL. 1954-1970.
 ARTICLE 30. PREPARATORY SCHOOL FOR MINES AND MINING. 1971-1974.
 ARTICLE 31. SCHOOL HOUSES. 1975-1993.

ARTICLE 1.

PUBLIC SCHOOL FUND. 1678-1679.

SECTION.	SECTION.
1678. Appropriations for public schools.	1679. When appropriations accrue; placed to credit of educational fund.

(r.c.c.)

1678. (3539) (943) Appropriations for public schools.—
 For the maintenance of a system of public schools of the state

Officers and Boards of Public Schools.

the following sums of money are hereby appropriated for every scholastic year, to wit:

1. The annual interest at six per cent on all sums of money which have heretofore been or which may hereafter be received by the state, as the proceeds of sales of lands granted or entrusted by the United States to the state, or to the several townships thereof, valueless sixteenth section fund, and school indemnity fund for school purposes.

2. The annual interest at four per cent on that part of the surplus revenue of the United States deposited with the state under the act of congress approved June 23, 1836.

3. All annual rents, incomes, and profits or interest arising from the proceeds of sales of all lands as may hereafter be given by the United States, or by this state, or by individuals, for the support of the public schools of the state.

4. All such sums as may accrue to the state as escheats the same to be applied to the support of the public schools during the scholastic year next ensuing the receipt in the state treasury.

5. The net amount of poll tax that may be collected in the state; poll tax collected in every county to be retained therein for the support of the public schools thereof and distributed and disbursed as provided in this chapter.

6. Licenses which are by law required to be paid into the school fund of any county to be promptly paid by the judge of probate or other person collecting the same to the county superintendent of education and to be expended for the benefit of the public schools of each county.

7. The further sum of three hundred and fifty thousand dollars annually for every scholastic year.

1679. (3540) (944) When appropriations accrue, placed to credit of educational fund.—All such appropriations, except the poll tax, shall accrue to the educational fund on the first day of October, in each year; and on that day the state auditor shall place to the credit of that fund, on the books in his office, all such amounts as accrue thereto from the sources in this article mentioned, except the poll tax, for the scholastic year beginning on that day.

ARTICLE 2.

OFFICERS AND BOARDS OF PUBLIC SCHOOLS. 1680.

1680. (3541) (945) Officers and boards for administration of public schools.—For the administration and government of public schools in this state, there are the following officers and boards of education:

Amended,
Sep. 30,
1903, p.
239, §§ 6
and 10.

1. The superintendent of education.

SCHOOLS.

Superintendent of Education.

2. A county superintendent of education in each county.
3. Three district trustees in each school district.
4. *One county board of education; constituted as herein-after provided.

Statute construed.—Gibson v. Mabry, 145 Ala. 112 (40 So. 297).

ARTICLE 3.

SUPERINTENDENT OF EDUCATION. 1681-1688.

SECTION.

- 1681. Term of office; salary.
- 1682. Oath of office and bond.
- 1683. Office and books; papers and records.
- 1684. Clerks and their salaries.
- 1685. Duties of superintendent of education.

SECTION.

- 1686. Report to governor, contents.
- 1687. Report to be printed and distributed.
- 1688. Vacancy filled by governor; term, etc., of appointee.

Const., §
114; Feb.
22, 1907,
p. 63, § 1.

1681. (3542) (946) Term of office; salary.—“The Superintendent of Education” holds office for the term of four years from the time of his installation in office, and until his successor is elected and qualified, and shall receive a salary of three thousand dollars per annum, payable in monthly installments, on the last day of each month, and shall not be eligible as his own successor.

1682. (3543) (947) Oath of office and bond.—Before entering upon the duties of his office, he shall take the oath of office prescribed by the constitution, and shall also give bond, with sureties to be approved by the governor, in the sum of fifteen thousand dollars, conditioned faithfully to discharge the duties of his office so long as he shall remain therein, or perform any of the duties thereof; and such bond shall be filed in the office of the secretary of state.

1683. (3544) (948) Office and books, papers and records.—He shall have an office at the capitol of the state, where the bonds, papers, and records of his office shall be kept, and where he shall give attendance when not absent on official business; and it shall be the privilege of all persons interested to have access, at all proper hours, to the books, papers, and records of the office.

Feb. 22,
1907, p.
63, § 7.

1684. (3545) (949) Clerks and their salaries.—He is authorized to employ a chief clerk, two bookkeepers, and a stenographer for service in his office; and such clerks shall be allowed salaries as follows: The chief clerk, eighteen hundred dollars per year; the two bookkeepers, fifteen hundred dollars per year each; the stenographer, seven hundred and fifty dollars per year, to be paid as the salaries of other department clerks are paid.

Superintendent of Education.

1685. (3546) (950) Duties of the superintendent of education.—The duties of the superintendent of education shall be as follows:

1. He shall devote his time to the care and improvement of the common schools, and the promotion of public education, and shall exercise a general supervision over all the educational interests of the state; and to this end he shall have power to require from the county superintendent of education, township and district trustees of public schools, and all other school officers, all such reports and information relating to the educational fund, or the condition of the schools and the management thereof, as he may deem important, or as may be prescribed by law; and he may remove from office any such officer, except the county superintendent, for failure to make such report, give such information, or discharge any other official duty.

2. He shall annually, as far as practicable, visit every county in the state for the purpose of inspecting the schools and their management, the accounts of county superintendents of education, and other school officers, and for diffusing as widely as possible, by personal address and personal communication, information as to the importance of public schools and the best method for their management; and he shall encourage and assist at organizing and conducting teachers' and superintendents' institutes.

3. He shall make provision for instructing all pupils in all schools and colleges supported, in whole or in part, by public money, or under state control, in hygiene and physiology, with special reference to the effects of alcoholic drinks, stimulants, and narcotics upon the human system.

4. He shall make provision for instructing all pupils in all schools and colleges supported, in whole or in part, by public money, or under state control, in the constitution of the United States and the constitution of the State of Alabama.

5. He shall annually apportion the public school fund to the several counties, and the county board of education shall apportion the same to the school districts as required by section 256 of constitution, and shall see to the proper disbursement of the same; and to this end he shall keep an accurate account with all officers who may be custodians or disbursers of the school fund, or any part thereof. Const.,
§ 256.

6. He shall prepare all forms, and have printed and distributed all such blanks as may be necessary, or as may be required by law, in the administration of the public school system.

7. He shall furnish the county superintendents and other school officers all necessary books for keeping their accounts

SCHOOLS.

Superintendent of Education.

and records, to be and remain public property; and he shall prescribe a uniform system of keeping such accounts and records.

8. He shall take receipts for all such books so furnished by him to school officers, and such officers shall take good care thereof, and turn them over to their successors in office.

9. He shall keep a debtor and creditor account with each township, or other school district, in the state, of all funds accruing thereto for educational purposes.

10. He shall keep an accurate account of the capital of all sixteenth-section or other trust funds, to which each township or school district may be entitled, showing whence and when such funds were derived.

11. He shall preserve in his office all bonds of school officers and others required to be filed therein.

12. He shall cause suits to be instituted and prosecuted against all defaulters to the educational fund, and for this purpose may employ attorneys; but he shall not have power to contract to pay such attorneys out of the educational fund more than ten per cent of the amount recovered by them in such suits; and of such fund he may pay such lawful costs as may be taxed against him as superintendent of education, in case he is cast in any of such suits.

13. He shall, by correspondence, exchange of official reports, and other proper means, elicit information relative to the system of public education in other states and countries, and disseminate all useful knowledge regarding the same among the county superintendents and other school officers in the state.

14. He shall collect in his office such school books, apparatus, maps, charts, and specimens of improved school furniture as can be obtained without expense to the state.

15. He shall prepare and have printed in pamphlet form by the public printer all laws, rules, and regulations pertaining to the public school system of the state, including therein the constitution of the United States and the constitution of the State of Alabama, and cause the same to be distributed among the county superintendents of education, and other officers connected with the school system, for the information of those interested in the educational interests of the state.

16. He shall hold, or cause to be held, within each congressional district, one or more teachers' institutes, to be conducted by a teacher experienced in and familiar with the most improved methods of instruction, for a term of one week or more during the summer months of each year; and for such purpose may, from time to time, certify to the state auditor the amount, not exceeding twelve hundred dollars in any one

Superintendent of Education.

year, necessary to defray the expenses of employing teachers to conduct such institutes and instruct the teachers who attend them, and upon such certificate it shall be the duty of the state auditor to draw his warrant upon the state treasurer for such sum or sums in favor of the superintendent of education as may remain unapportioned in the treasury at the time. And such sums must be disbursed so as to secure the greatest good to the largest number of teachers in the common schools, and it shall be the duty of the superintendent of education to take vouchers therefor to be kept on file in his office, and to make an itemized statement in his quadrennial report as to how and to whom said money has been disbursed.

17. He shall perform such other duties as are, or may be, prescribed by law.

(Feb. 28, 1887, p. 58; [sub. 13] Mar. 1, 1881, p. 8, § 2; [sub. 5] Feb. 10, 1891, p. 554, § 1; [sub. 3] Feb. 10, 1885, p. 113, § 1; Feb. 7, 1879, p. 117, § 7.)

1686. (3547) (951) Report to governor; contents.—He shall (r.c.c.) also, annually, on or before the first day of December, report to the governor in writing—

1. A brief history of his labors.
2. An abstract of the reports received by him from the county superintendents of education, exhibiting the condition of the public schools.
3. Estimates and accounts of expenditures of school money.
4. An itemized statement showing how the contingent fund of his department and all other special funds or appropriations under his control have been disposed of.
5. Such recommendations as he may desire to make for the improvement of the school system, and the care and increase of the educational fund.
6. All such other matters relating to his office and to the public schools as he shall deem expedient to communicate.

1687. (3548) (952) Report to be printed and distributed.—The governor shall, when such report is laid before him, direct the superintendent of education to have printed in the same manner and upon the same conditions as other printing is done, during the recess of the legislature, a sufficient number of copies of the report to supply the county superintendents and district trustees of public schools, and other school officers, and for the usual exchange with other states, and with the leading cities of the United States; and it shall be the duty of the superintendent of education to distribute the same as indicated in this section.

1688. (3549) (953) Vacancy filled by governor; term, etc., of appointee.—If the office of superintendent of education

SCHOOLS.

School Districts, Townships, and Re-Districting Boards; How Created.

should at any time become vacant, by death, resignation, or otherwise, the governor shall appoint a suitable person to fill such office for the unexpired term; and such appointee shall give bond and qualify in the same manner as if he had been elected for a full term.

ARTICLE 4.

TOWNSHIPS ABOLISHED. 1689.

Sep. 30,
1903, p.
290, § 1.

1689. Townships abolished; public school re-districted.—Township lines for school purposes are abolished; provided the inhabitants of no township shall be deprived of the sixteenth section or any fund arising therefrom, or of selling and leasing such lands as provided by law.

Act does not relate to separate school districts under local law.—*Brown v. Sanders*, 144 Ala. 500 (42 So. 39).

ARTICLE 5.

TOWNSHIPS AND SCHOOL DISTRICTS INCORPORATED. 1690.

1690. (3624) (1024) (963) (576) (502) **Incorporation of townships.**—The inhabitants of each township in the state are incorporated by the name of "Township _____, of range _____," according to the number of the surveys of the United States, and the inhabitants of each school district are incorporated by the name and number by which it is known or designated.

(*Aikin's Digest*, p. 375, § 24.) Capacity of township to hold property.—*Yerby v. Sexton*, 48 Ala. 311.

ARTICLE 6.

SCHOOL DISTRICTS AND RE-DISTRICTING BOARDS; HOW CREATED. 1691-1696.

SECTION.

- 1691. District lines and boundaries; how changed.
- 1692. Counties and districts not included within article.
- 1693. Incorporated cities and towns; separate school districts.

SECTION.

- 1694. School districts not affected by county lines.
- 1695. Funds; how paid.
- 1696. Repeal.

July 17,
1907, p.
478, § 4.

1691. District lines and boundaries; how changed.—The lines and boundaries of any public school district heretofore established by general law or any special law may be changed, or a new public school district may be created, by the vote of a majority of the county board of education, upon application to said board, and after notice of said application and of the time and place of hearing the same has been given by publication for three successive weeks in some newspaper

School Districts and Re-Districting Boards; How Created.

published in said county, if a newspaper be published therein, and by posting written notices in at least three public places in the territory to be affected by said change. Said publication and notice shall be made and given by the county superintendent of education, and the person or persons making the application for such change shall deposit with him a sum of money sufficient to pay the expenses of said publication and notices, such sum of money to be expended by him for that purpose. And whenever the boundaries of any public school district are changed by the county board of education or a new public school district shall be created by said board under this section, the county superintendent of education, within ten days after such change, or the creation of such district, shall file in the office of the judge of probate of his county, an accurate description of such change, or of the district so created, and the judge of probate shall record the same in the book to be kept by him. The change of the lines or boundaries of any public school district or the creation of a new district under this section may also be made by adding to or taking from any district composed of an incorporated city or town such contiguous territory as such board may deem best.

1692. Counties and districts not included within article.—Sep. 30, 1903, p. 239, § 19; July 17, 1907, p. 478, § 6. The provisions of this article shall not apply to any county heretofore districted by authority of a special law, and which has a special levy from the county for the support of the public schools therein.

1693. Incorporated cities and towns separate school districts.—Ib., § § 20 and 7. Each incorporated city or town in the state is a separate school district.

1694. School districts not affected by county lines.—Sep. 26, 1903, p. 264, § 1. Any school district which, by the creation of new counties or the change of county lines, shall lie in two or more counties, shall in no wise be repealed by the creation of said new counties or the change of county lines.

1695. Funds; how paid.—Ib., § 2. The superintendent of education of the counties in which said school districts shall lie, shall pay over to the treasurer of said school boards in said school districts all the funds or money coming into their hands due said school districts.

1696. Repeal.—Ib., § 8. All laws as to school districts which, by the creation of new counties or the change of county lines, lie in two or more counties, which are in conflict with the provisions of this article, are repealed.

ARTICLE 7.

DISTRICT TRUSTEES; ELECTION, POWERS, AND DUTIES OF. 1697-1701.

SECTION.

1697. District trustees; election of; term of office.

1698. District trustees; organization of.

1699. Duties of district trustees.

SECTION.

1700. Graded schools increase number of trustees.

1701. Municipal school district; board of education and trustees for.

As amended, July 17, 1907, p. 478, § 1.

1697. (3560) (966) District trustees; election of; term of office.—On the first Saturday in July, 1908, and each fourth year thereafter, at an hour to be fixed and appointed by the county superintendent of education of each county, and to be uniform throughout the county, after notice has been given thereof by the county superintendent of education by publication in a newspaper published in said county for three successive weeks (the expenses to be paid out of the county treasury), and if there be no newspaper published in the county, then by written notices sent to each of the chairmen of the boards of district trustees in such county, the qualified electors of each public school district shall meet at the district schoolhouse and elect from among the freeholders and householders who can read and write residing in such districts, a local board of three district trustees whose duty shall be as hereinafter provided. The chairman, or, in his absence, a member, of the board of district trustees shall preside over such meeting and shall certify to the county superintendent of education the result of the election held thereat, which certificate must show the names of the district trustees elected at said meeting for the district, and said certificate must be filed with the county superintendent of education within five days after such meeting and election; provided, however, that in the event the chairman or other member of such board of district trustees should not be present at the time fixed for said meeting, or, being present, should willfully fail or refuse to call said meeting to order or to preside over the same, then the qualified electors of such district assembled may choose from among their number a person to preside over such meeting, and such person shall be fully authorized to so preside and to make the certificate of election of district trustees had at such meeting and to file the same as herein provided. Any qualified voter of such district may, within ten days after the holding of such election, contest the election of any person or persons shown to be elected by said certificate, by filing a contest in writing with the county superintendent of education and addressed to the county board of education, stating therein the ground for such contest, and it shall be the duty

District Trustees; Election, Powers, and Duties of.

of the county board of education, upon notice to them by the county superintendent of education of the filing of such contest, to meet and hear and determine such contests within twenty days from the holding of the election. The county superintendent of education, upon the filing of all such contests, shall immediately notify in writing such person whose election is contested, of the filing of the same and of the date and place where such contest shall be heard. Such district trustees shall hold office for the term of four years from the time of their election and until their successors are elected and qualified.

(Feb. 10, 1891, p. 554, § 2; Feb. 7, 1879, p. 117, § 27.) Statute construed.—*Gibson v. Mabry*, 145 Ala. 112 (40 So. 297).

Statute construed.—*Gibson v. Mabry*, 145 Ala. 112 (40 So. 297).

1698. District trustees; organization of.—The trustees provided for in the preceding section shall within ten days after their election or appointment meet at the public school district schoolhouse, or some place more convenient to all concerned, and shall organize by electing one of their number chairman and another secretary. Sep. 30,
1903, p.
289, § 7.

1699. (3562) (968) Duties of district trustees.—The district trustees shall— Ib., § 8.

1. Make enumeration of children within school age as provided by law.

2. Care for all school property.

3. Nominate teachers for their school districts, such nomination to be subject to the approval of the county board of education, the contract to teach to be made with said county board of education. July 17,
1907, p.
478, § 2.

4. Visit the schools within their respective districts, observe the management of the same, and make quarterly reports of the condition of such school to the county superintendent of education.

5. Perform such other duties as may be required by the county board of education hereinafter provided for. If said district trustees shall fail or refuse for a period of thirty days after required in writing by the county board of education to nominate and submit for approval a teacher or teachers for their district, or for such period after so required in writing, shall fail or refuse to perform any of the duties required of them under this section, the county board of education shall be authorized to perform any such duties, including the nomination and employment of teachers in lieu of said district trustees, wherein they have failed to perform them.

History of subject: (*Aikin's Digest*, p. 374, § 22; Feb. 7, 1879, p. 117, § 31; Mar. 1, 1881, p. 67; Feb. 10, 1891, p. 554, § 4; Feb. 21, 1893, p. 1176.) Injunction to restrain payment of teacher.—*Brasher v. Miller*, 114 Ala. 485 (21 So. 467).

County Superintendents of Education.

Action against superintendent and sureties for breach of official bond.—Gay v. Bankston, 100 Ala. 280 (13 So. 939).

July 17,
1907, p.
478, § 12.

1700. Graded schools increase number of trustees.—Whenever there has been established in any school district, a system of graded schools free to the children of school age, within such district for a period of not less than eight months in each year, the electors of such district may increase the number of the district trustees to five, and assume entire control of the public schools therein; provided, the trustees of such districts shall make all reports required by law to the county board of education.

Ib., § 20;
as amend-
ed, July
17, 1907,
p. 478, § 7.

1701. Municipal school district; board of education and trustees for.—In all municipalities where there is a board of education, the board shall have full charge and control of such separate school district, and shall have and exercise all the powers and authority conferred by law upon township trustees. In municipalities where there is no such board of education, the powers and duties of trustees shall devolve upon and be performed by the mayor and board of aldermen, or other governing body, of said municipality, and all funds due such separate school districts shall be paid to the board of education of such separate school district, or to the mayor, board of aldermen, or other governing body of such municipality, where there is no such board of education, by the county superintendent of education, as required by law.

ARTICLE 8.

COUNTY SUPERINTENDENTS OF EDUCATION. 1702-1711.

SECTION.

- 1702. One elected for each county.
- 1703. Term of office; removal.
- 1704. Oath of office and bond.
- 1705. Approval and record of bond.
- 1706. New or additional bond; effect of notice to give.
- 1707. His duties.

SECTION.

- 1708. Forfeiture for failure to make annual reports.
- 1709. Books and accounts liable to examination.
- 1710. Vacancies; how filled; term, etc., of appointees.
- 1711. Compensation of county superintendents of education.

As amend-
ed, Oct. 9,
1908, p.
438, § 27.

1702. (3550) (954) One elected for each county.—A county superintendent of education for every county shall be elected on the first Tuesday after the first Monday in November, 1908, and every fourth year thereafter, and all local, or special laws in conflict herewith are expressly repealed.

(Feb. 13, 1889, § 396; Feb. 7, 1879, p. 117, § 12.) General election law changed time of election, but did not repeal local law of certain counties.—State v. Thompson, 142 Ala. 98 (38 So. 679); State v. Houghton, 142 Ala. 90 (38 So. 761).

County Superintendents of Education.

1703. (3551) (955) Term of office; removal.—The term of office of county superintendents shall commence on the first day of October next after their election, and shall hold office for four years and until their successors shall qualify, and shall not be required to file their official bonds until fifteen days before the beginning of the term of office, and the terms of all county superintendents now in office are hereby extended to the first day of October, 1909.

(Feb. 7, 1879, p. 117, § 22.)

1704. (3552) (956) Oath of office and bond.—Every county superintendent of education, before entering upon the duties of his office, must take the oath of office prescribed by the constitution, and give bond in an amount to be fixed by the superintendent of education, but in no case to be less than double the probable amount of money that may be in his hands at any time, with good and sufficient sureties, and payable and conditioned as official bonds of other public officers.

(Feb. 7, 1879, p. 117, § 20.)

1705. (3553) (957) Approval and record of bond.—Such bond must be approved by, and, with the oath of office, must be filed and recorded in the office of the judge of probate of the county; and a certified copy of the bond must also be filed in the office of the superintendent of education for his approval.

(Feb. 7, 1879, p. 117, § 20.) Failure to file copy with superintendent of education no defense to county superintendent or his sureties, in an action for his default.—Reed v. Summers, 79 Ala. 522.

1706. (3554) (958) New or additional bond; effect of notice to give.—The superintendent of education shall require of any county superintendent of education a new or additional bond, in the same, or a different amount, as that of the original bond, whenever he shall find it necessary for the protection of the educational fund of the county; and no county superintendent of education, after receiving notice to give such new or additional bond, shall continue in the discharge of the duties of his office until such new or additional bond is given.

(Feb. 7, 1879, p. 117, § 20.)

1707. (3556) (960) His duties.—The duties of the county superintendent of education shall be as follows:

1. He shall have an office at the county site of his county, where he must, on the first Saturday of each month, from the beginning of the scholastic year until the close of the public schools for that year, be present to transact business with the officers and teachers of public schools.

2. He must receive and take charge of any money, funds, property, or proceeds of any character, raised in his county by

As amend-
ed, Oct. 9,
1908, p.
488, § 27.

As amend-
ed, Sep.
30, 1908,
p. 290,
§ 15.

County Superintendents of Education.

county taxation, or which may accrue to him or to the county from any gift, grant, bequest, devise, endowment, or otherwise, to be used in aid of, or in connection with, money apportioned to his county from the educational fund, and shall faithfully keep the same, separate and apart from any other funds or property whatsoever; and after the county board of education shall have apportioned the public funds of the county, as in this Code provided, he shall, by and with the consent of the county board of education, distribute and pay out all money raised in accordance with this subdivision; but all money, raised by local taxation in any school district or incorporated city or town, shall be expended for the benefit of the district, city, or town in which the money is raised, and by such persons, and in such manner, as are authorized by the laws in force for the control and government of public schools in such district, city, or town.

3. He shall examine into the condition of all school funds of his county, including the sixteenth-section fund, and sixteenth-section lands unsold in his county; and he is authorized and required in the name of the state for the use of the township, to bring all necessary suits for the recovery of the possession of such lands, or against trespassers thereon.

Against trespassers thereon.—Gaston v. State, 88 Ala. 459 (7 So. 340).

4. He shall, as soon as he receives the annual apportionment of the educational fund to his county and the same has been apportioned among the districts by the county board of education, notify the district trustees of each district of the amount apportioned to each separate school district.

5. He shall enter in a book or books, kept for that purpose, the exact amount and date of all moneys received and paid out by him on account of the educational fund of his county, showing by whom or to whom paid, and for what purpose, and also the amount of the educational fund apportioned to, and distributed in each district for each race; and such books shall be open to the inspection of all persons interested.

6. He shall, on or before the fifteenth day of October of each year, forward to the superintendent of education, on blanks to be furnished him by the latter, an annual report of the public schools of his county for the preceding year, which shall set forth (1) the amount of school money received by him from all sources to the end of the year, specifying how much was received from each source; (2) how much has been disbursed by him during such year, for what purpose, and the names of teachers to whom money has been paid, the time they taught, and the total amount paid to each teacher; (3) the amount of funds then in hand for each township or school district in his county; and (4) the manner in which, and the extent to which,

County Superintendents of Education.

he has discharged the duties required by law to be performed by him.

7. He must, monthly, on the first Saturday in each month of each year, or as soon thereafter as practicable, pay the teachers of the public schools, upon the certificate of the trustees of the district in which the school was taught; and in counties in which separate districts have been established by special laws, he shall pay over to the officers authorized to receive the same their proportionate shares of the school revenues at the times above designated.

(Feb. 10, 1891, p. 554, § 4; Feb. 7, 1879, p. 117, §§ 13, 14, 17, 18.) The legislature possesses ample authority to establish and make provisions for school districts.—Somerville v. Wood, 115 Ala. 534 (22 So. 476). **Mandamus by teacher to compel payment of warrant for services as teacher.**—Somerville v. Wood, 115 Ala. 534 (22 So. 476).

1708. (3557) (963) Forfeiture for failure to make annual reports.—If any county superintendent shall willfully fail to make out and forward to the superintendent of education any annual report required by this article, within ten days after the time it should be made, he shall be liable to a forfeiture of his commission, to be declared by the superintendent of education, and to removal from office.

(Feb. 7, 1879, p. 117, § 19.)

1709. (3558) (962) Books and accounts liable to examination.—The books, accounts, and vouchers of the county superintendent of education may be examined at any time by the superintendent of education in person or by duly authorized agent.

(Feb. 7, 1879, p. 117, § 13 [sub. 1]; Feb. 23, 1883, p. 173.)

1710. (3559) (965) Vacancies, how filled; term, etc., of appointees.—The superintendent of education shall fill all vacancies in the office of county superintendent of education, by appointment; and such appointee shall hold during the unexpired term, and until his successor qualifies, and shall give bond and qualify as is required by law.

(Feb. 7, 1879, p. 117, § 23.)

1711. (3555) (959) Compensation of county superintendents of education.—For their compensation, they shall receive four per cent on all state public moneys legally disbursed by them, not to exceed the sum of eighteen hundred dollars for any calendar year. For all moneys received and disbursed by them, the county superintendents shall account to the superintendent of education, as now provided by law.

Sep. 30,
1903, p.
280, § 15.

(Feb. 21, 1893, p. 833; Feb. 7, 1879, p. 117, § 24.)

ARTICLE 9.

COUNTY BOARDS OF EDUCATION; ELECTION, POWERS, AND DUTIES OF. 1712-1716.

SECTION.

1712. County boards of trustees.
 1713. County board of education.
 1714. Vacancies in boards of education; how filled.

SECTION.

1715. Powers and duties of county boards of trustees.
 1716. Pay or compensation of county boards of education.

Sep. 30,
 1903, p.
 289, § 10;
 as amended,
 July
 17, 1907,
 p. 478, § 3.

1712. County boards of trustees.—The chairman of the several boards of district trustees shall meet at the court house of their respective counties, the second Saturday in August after their election, and shall elect four county school trustees, who shall hold office for the term of four years from the date of their election and until their successors are elected and qualified. Before entering upon the duties of office, they shall take the oath of office prescribed by the constitution of the state.

Statute construed.—*Gibson v. Mabry*, 145 Ala. 112 (40 So. 297).

.b.

1713. (3583) (989) County board of education.—The county superintendent of education and said four county trustees shall constitute the county board of education within their respective counties. The county superintendent of education shall be the chief executive officer of said county board of education, and shall see that all rules, regulations, and orders of said county board are enforced; provided, that no district trustee shall, during his term of office, be eligible to election as a county trustee, nor shall more than one teacher actively engaged in teaching in the public schools in this state be a member of said county board of education at one and the same time. The court of county commissioners, or board of revenue, of each county, shall provide, at the expense of the county, all necessary blank books, stationery, and postage for the use of the county boards of education of the county.

Ib., § 17;
 as amended,
 July
 17, 1907,
 p. 478, § 5.

1714. (3583) (989) Vacancies in boards of education; how filled.—Any vacancy on the county board of education shall be filled by the superintendent of education of the state by and with the approval and consent of the governor, for the unexpired term, and any vacancy on a board of trustees shall be filled for the unexpired term by the county board of education.

Sept. 30,
 1903:
 Ib., § 11.

1715. Powers and duties of county boards of trustees.—The county board of education shall have entire control of the public schools within their respective counties, unless otherwise provided by law. They shall make rules and regulations for the government of the schools, see that the teachers perform their duties and exercise such powers, consistent with the law, as in their judgment will best subserve the cause of educa-

Enumeration or Census of School Children.

tion. The board shall have the right to acquire, purchase, lease, receive, hold, transmit, and convey the title to real and personal property for school purposes, except where otherwise provided. Said board of education shall, by and in the name of the county board of education, sue and contract; all contracts to be made after resolution adopted by said board, and spread on its minutes and signed by the president and secretary, and all process shall be executed on the secretary of said board.

1716. Pay or compensation of county board of education.— Sep. 30, 1908, p. 289, § 14.

Each of the four members of the county board of education shall receive from the public school funds of the county, to be disbursed by the county superintendent of education, two dollars a day for each day's work devoted by him to the public schools; provided, he shall not receive pay for more than ten days in any one year. The county superintendent of education shall apportion among the several school districts the amount of compensation to be paid to the members of the county board of education, and account for the same in like manner as provided for the compensation paid to teachers in such districts.

ARTICLE 10.

ENUMERATION OR CENSUS OF SCHOOL CHILDREN. 1717-1718.

SECTION.

1717. Census or enumeration of school children.

SECTION.

1718. Compensation of enumerators.

1717. Census or enumeration of school children.—The district trustees of each public school district in this state, whether existing under general law or created by special or local law, and the boards of education, or school trustees, or other governing board or body, of any public school district lying in any incorporated town or city in this state, shall cause to be made during the month of July, 1908, and every even-numbered year thereafter, an enumeration of all the children within school age residing in each of said several school districts, and to that end said trustees, or boards of education, or other governing board or body, shall select and appoint a proper and competent person to make such enumeration, on blanks to be prepared and provided by the superintendent of education of the state, and such person shall make a report of such enumeration under oath to the county superintendent of education of his county by the 15th day of August next succeeding the time of the taking of said census. The county superintendent shall then make a written verified report by districts to the superintendent of education of the state. Aug. 14, 1907, p. 754, § 1.

Teachers; Qualifications, License, Powers, and Duties of.

Aug. 14,
1907, p.
754, § 2.

1718. Compensation of enumerators.—The court of county commissioners, or board of revenue, or other court of like jurisdiction for each county, shall fix the compensation of each of said persons taking such school census in each district, no part of which is situated in any incorporated town or city, and shall order the same paid to such persons out of the general funds in the county treasury of the county wherein such enumerations are made. And the mayor and city council, or other governing body, of any municipality wherein a public school district is situated, in whole or in part, shall fix the compensation of the person who shall take the school census in such district, and shall order the same paid out of the treasury of such town or city.

ARTICLE 11.

TEACHERS; QUALIFICATIONS, LICENSE, POWERS, AND DUTIES OF. 1719-1750.

SECTION.

- 1719. Board of examiners.
- 1720. Meetings of examiners.
- 1721. List of questions prepared.
- 1722. Times for examination of teachers.
- 1723. Special examinations.
- 1724. Examinations in counties; by whom and how conducted.
- 1725. Examination fees.
- 1726. Compensation of state board of examiners.
- 1727. Compensation of examiners.
- 1728. Teachers shall not receive assistance on examination.
- 1729. Statement signed by teachers.
- 1730. Applicant must be of good moral character.
- 1731. Habitual use of profane language or intoxicants.
- 1732. Grades of certificates.
- 1733. Percentage and certificate required.
- 1734. Branches of learning examined upon.
- 1735. Examination shall be written; kind of paper and ink to be used.

SECTION.

- 1736. Examination papers delivered to examiner; transmission to board.
- 1737. Board examines and grades papers.
- 1738. Certificates issued.
- 1739. Examination papers kept on file six months.
- 1740. Lifetime of certificates.
- 1741. Life certificates.
- 1742. Forfeiture of life certificate.
- 1743. Revoking certificate.
- 1744. Register of licensed teachers.
- 1745. Separate districts.
- 1746. Instruction as to the nature of alcoholic drinks and narcotics.
- 1747. Teaching agriculture in public schools.
- 1748. Register kept by teacher and submitted.
- 1749. Monthly report; not entitled to compensation until forwarded.
- 1750. To be paid monthly.

Feb. 10,
1899, p.
217, § 1.

1719. Board of examiners.—There shall be constituted a state board of examiners, to be composed of the superintendent of education, who shall be the president of the board, and two other persons, to be appointed by him, who shall be teachers of extensive experience and recognized ability. The term of office of the said board shall be co-equal with that of the superintendent of education.

Teachers; Qualifications, License, Powers, and Duties of.

1720. Meetings of examiners.—The said state board of examiners shall meet during the months of November and May of each year, and shall prepare questions for the examination of teachers. Feb. 8, 1901, p. 114, § 1.

1721. List of questions prepared.—The president of the state board of examiners shall cause lists of questions so prepared to be printed, and shall, on or before the fifteenth day of December and June of each year, send to each person appointed to conduct examinations in the counties of the state a sufficient number of the lists; the questions so sent shall be inclosed in a sealed envelope, on the back of which shall be plainly written or printed the words, "Questions for the examination of teachers." The seal of said envelope shall not be broken except as hereinafter provided. Ib., § 2.

1722. Times for examination of teachers.—The first Mondays in January and July are appointed for the examination of teachers. The examination may be continued from day to day for three consecutive days, if such continuance shall be necessary for the completion of the work of examination, but no examination shall be begun on any other day than the first day mentioned in this section. No examination shall be held at any other time, except as otherwise provided. Ib., § 3.

1723. Special examinations.—The state board of examiners may hold, at the department of education in Montgomery, special examinations for the benefit of persons who are prevented from taking the regular examination by sickness, absence from the state, or other unavoidable cause. Each person taking a special examination shall pay to the state board of examiners a fee of five dollars. Special examinations shall be equal in all respects to the regular examinations. The superintendent of education may also; at his discretion, allow examinations in May and October at any Alabama normal school which requests it for applicants to teach in the public schools; the expense of the examination to be borne by the applicants. Ib.; Oct. 6, 1903, p. 396, § 1.

1724. Examinations in counties; by whom and how conducted.—The regular examination shall be conducted in each county by the county superintendent of education, unless for good and substantial reasons the state board of examiners shall deem it best to select for this service another person appointed for that purpose by the state board of examiners, and if he shall be unable, by reason of sickness or other unavoidable necessity to conduct the same, then by some other competent person appointed for that purpose by him. Said examination shall begin at 10 o'clock a. m. of the day appointed, at which hour the person appointed to conduct the examination shall, in the presence of the applicants for examination, break the seal of the envelope containing the lists of questions, and shall dis- Feb. 8, 1901, p. 114, § 4.

Teachers; Qualifications, License, Powers, and Duties of.

tribute the questions among the applicants. All applicants shall undergo the examination in the same room, or in sight of the person appointed to conduct such examination.

Feb. 8,
1901, p.
114, § 5.

1725. Examination fees.—Each applicant for examination shall, before entering upon the examination, deposit with the person appointed to conduct the examination an examination fee as follows: An applicant for a third-grade certificate, a fee of one dollar; an applicant for a second-grade certificate, a fee of one and one-half dollars; an applicant for a first-grade certificate, a fee of two dollars; an applicant for a life certificate, a fee of three dollars. The fees received from the examination of teachers at regular examinations shall be paid into the state treasury to the credit of the educational fund, and the state auditor shall, on the requisition of the superintendent of education, issue warrants on the state treasurer, to be paid out of the educational fund, for the purpose of carrying out the provisions of this article, such as the payment of expenses for postage, for expressage, for clerk hire, for state board of examiners only, for the per diem of the state board of examiners, for paying county conductors, and for other incidental expenses incurred in carrying out the provisions of this article.

1b.

1726. Compensation of state board of examiners.—The appointed members of the state board shall receive five dollars per day, including Sundays, for the time they are engaged in conducting the examination of teachers under this article.

. b.

1727. Compensation of examiners.—The county superintendent or person appointed to conduct the examination in each county shall receive ten dollars for his services in conducting each examination.

Feb. 10,
1899, p.
217, § 7.

1728. Teachers shall not receive assistance on examination.—Teachers on examination shall not be permitted to sit near enough to one another to read the other's papers, and no teacher on examination shall receive any assistance from any person, or by reference to any book, map, or chart, or from any other source, and no person shall be licensed to teach who shall endeavor to procure any such assistance.

1b.

1729. Statement signed by teachers.—Each teacher so examined shall, upon the completion of his examination, sign a statement that he or she has not received any assistance in said examination from any source; which statement shall be kept on file by the county superintendent of education.

Feb. 8,
1901, p.
114, § 6.

1730. Applicant must be of good moral character.—Unless the applicant is known to the person appointed to conduct the examination to be of good moral character, or shall make satisfactory proof of the same, in writing, he or she shall not be admitted to the examination.

Teachers; Qualifications, License, Powers, and Duties of.

1731. Habitual use of profane language or intoxicants.— Feb. 8,
Any one who habitually uses profane language or intoxicants 1901, p.
shall be deemed of immoral character. 114, § 6.

1732. (3576) (983) Grades of certificates.—There shall be Ib., § 7.
three grades of teachers' certificates, besides the life certificate, hereinafter provided, to be known as certificates of the first, second, and third grades, each of which must show the branches in which the holder has been examined, and his general average.

(Feb. 7, 1879, p. 117, § 45; Mar. 1, 1881, p. 75, § 1.)

1733. (3576) (983) Percentage and certificate required.— Ib.
In no case shall an applicant for a certificate receive the same who fails to answer fifty per cent of the questions propounded in any branch, and whose general average is below seventy-five per cent. Every teacher in the public schools must obtain a certificate prior to his employment.

1734. (3577) (984) Branches of learning examined upon.— Feb. 10,
Applicants for third-grade certificates shall be examined in 1899, p.
the following branches: Orthography, reading, penmanship, 217, § 10;
grammar, practical arithmetic through fractions, primary amended
geography, and the elementary principles of physiology and Oct. 10,
hygiene and agriculture; for second-grade certificates, they 1903, p.
shall be examined in all the foregoing branches, and also in 537, § 2.
practical arithmetic, history of Alabama, history of the United States, English grammar and composition, and intermediate geography; for first-grade certificates, they shall be examined in all the foregoing branches, and also in algebra, natural philosophy, geometry, the school laws of Alabama, and the theory and practice of teaching.

History of subject: (Feb. 26, 1887, p. 129; Feb. 4, 1891, p. 350, § 2; Feb. 10, 1885, p. 113, § 2; Dec. 12, 1882, p. 20, § 2; Mar. 1, 1881, p. 75, § 2.)

1735. Examination shall be written; kind of paper and ink to be used.— Feb. 10,
In all examinations under this article, the answers 1899, p.
shall be written on legal cap paper, with pen and ink. The 217, § 11.
subject or branch shall be plainly written at the top of the page, and the answers shall be numbered to correspond with the questions.

1736. Examination papers delivered to examiner; transmission to board.— Feb
When an applicant shall have completed his 1901,
examination, he shall write his name and address on each paper 114, § 8.
of the same, and deliver the same to the person appointed to conduct the examination, who shall inclose the papers of each applicant in a separate envelope, together with his certificate of the good moral character of the applicant, or the written proof of the same, on which he admitted the applicant to exam-

Teachers; Qualifications, License, Powers, and Duties of.

ination, and shall transmit the same to the secretary of the state board of examiners without delay.

Feb. 10,
1899, p.
217, § 13.

1737. Board examines and grades papers.—The state board of examiners shall examine the papers coming to it under the provisions of the preceding section, as expeditiously as possible, and shall mark upon each paper the teacher's grade in that branch, according to the correctness or approximate correctness of the answers.

Ib.

1738. Certificates issued.—If, upon such examination, it appears that the applicant is entitled to receive a certificate, the secretary of the board shall prepare a certificate in conformity with this article. The certificate shall be signed by the secretary of the state board of examiners and the superintendent of education, and shall be transmitted to the teacher entitled to the same.

Feb. 8,
1901, p.
114, § 9.

1739. Examination papers kept on file six months.—All examination papers shall be kept on file in the office of the superintendent of education subject to public inspection for six months.

Feb. 10,
1899, p.
217, § 15.

1740. (3579) (985) Lifetime of certificates.—Certificates granted under the provisions of this article shall entitle their holder to teach in the public schools of any county in this state for the following periods of time: A third-grade certificate, two years; a second-grade certificate, four years; and a first-grade certificate, six years from the date of issuance of the same.

Ib., § 17.

1741. Life certificates.—Whenever any teacher applying for a certificate shall make proof that he has been engaged for six years in teaching under first-grade certificate, which proof the county superintendent of education shall transmit to the state board of examiners, and shall show a high degree of proficiency and professional attainment, such teacher may be granted a life certificate, signed as prescribed for other certificates.

Ib.

1742. Forfeiture of life certificate.—Any teacher holding a life certificate shall forfeit the same by leaving off the business of teaching for five consecutive years.

Ib., § 18.

1743. Revoking certificates.—The superintendent of education shall revoke the certificate of any teacher who shall be guilty of immoral conduct or unbecoming or indecent behavior.

Oct. 9,
1903, p.
491, § 1.

1744. Register of licensed teachers.—The secretary of the state board of examiners shall keep a register of all teachers examined and licensed under this article, showing the name and postoffice address of each teacher and the date and grade of his certificate, and shall keep the same on file in the office of the superintendent of education, and shall devote his time, when not engaged in the work of examining teachers, to clerical work in the department of education.

Teachers; Qualifications, License, Powers, and Duties of.

1745. Separate districts.—The provisions of this article shall not be so construed as to prohibit separate school districts of two thousand inhabitants or more, having authority at present by their charter to examine teachers, to further examine teachers who have certificates granted under this article. Feb. 8,
1901, p.
114, § 10.
(r.c.c.)

1746. (3578) Instruction as to the nature of alcoholic drinks and narcotics.—Every teacher shall give instruction as to the nature of alcoholic drinks, tobacco, and other narcotics, and their effects upon the human system, and such subject shall be taught as regularly as any other in the public schools.

1747. Teaching agriculture in public schools.—In addition to the branches now taught in the public schools, instruction shall be given in the elementary principles of agriculture, and said subject shall be taught as regularly as other branches are taught in said schools, by the use of a text-book in the hands of the pupils, and such instruction shall be given in all the public schools of the state. Oct. 10,
1903, p.
537, § 1.

1748. (3580) (986) Register kept by teacher and submitted.—Every teacher of a public school must keep a register of the actual daily attendance of the pupils in his school, and must submit such register to the district trustees for their inspection.

1749. (3581) (987). Monthly report; not entitled to compensation until forwarded.—Every teacher of a public school must, within five days after the end of each scholastic month, forward to the county superintendent of education a complete report, setting forth the enrollment, attendance, the branches taught, and the number of pupils in each, distinguishing between the boys and the girls, and stating whether a white or colored school; also the number of days taught, the amount due for services from school revenues of the district, the number of visits by district trustees, and the name and postoffice of the teacher; and such report must be sworn to by the teacher before some one of the district trustees, and approved by them; and no teacher can draw any pay for the services rendered by him until he has forwarded his report in accordance with the requirements of this section.

1750. (3582) (988) To be paid monthly.—The teachers of public schools shall be paid monthly, as provided in this chapter.

(Feb. 7, 1879, p. 117, § 37.) Schoolmaster stands in loco parentis and may, in a proper case, inflict corporal punishment; but is criminally liable for an abuse of his authority.—Boyd v. State, 88 Ala. 169 (7 So. 268); McCormack v. State, 102 Ala. 156 (15 So. 438).

SCHOOLS.
Teachers' Institutes.

ARTICLE 12.

TEACHERS' INSTITUTES. 1751-1754.

SECTION.

1751. Teachers' institutes to be organized.
1752. Officers and members of institutes; no fee imposed without consent.

SECTION.

1753. Meetings of institutes.
1754. Business of the institutes.

1751. (3590) (995) **Teachers' institutes to be organized.**—It shall be the duty of the board of education in each county to organize and maintain therein teachers' institutes, one for teachers who are white persons, and one for teachers who are colored persons, to be held at such times and places as the board may prescribe; but there shall not be less than ten licensed teachers in the county of the race for whom such institutes shall be organized.

1752. (3591) (996) **Officers and members of institutes; no fee imposed without consent.**—The county superintendent of education shall be the president of such institutes, and the members of the board of education shall be the vice-presidents thereof, one of whom shall preside over its meetings in the absence of the president; the other officers thereof may be elected. Every teacher of the county holding a license shall be a member of the institutes organized for his race. But no fee or assessment shall be imposed on a member without his consent.

(r. c. c.) **1753.** (3592) (997) **Meetings of institutes.**—There shall not be less than three meetings in each year of such institutes, one of which shall be held in the month of September, and at this meeting an address to the teachers shall be made by some person selected by the educational board; and teachers holding licenses shall attend at least one of such meetings; and failing to attend without a good excuse to be judged of by the county superintendent of education, shall forfeit one month's salary of teacher.

1754. (3593) (998) **Business of the institutes.**—The meetings of the institutes shall be devoted mainly to discussions and instructions in regard to the methods of teaching and disciplining schools, and to the text-books used, and other matters connected with the schools and school laws.

ARTICLE 13.

CHILDREN AND PUPILS ELIGIBLE TO PUBLIC SCHOOLS. 1755-1757.

SECTION.

1755. Pupils entitled to instruction in public schools.

1756. When non-residents entitled to school privileges.

SECTION.

1757. Separate schools for the two races.

1755. (3595) (1000) Pupils entitled to instruction in public schools.—Every minor over the age of seven years shall be entitled to admission into, and instruction in any public school of his or her own race or color in this state.

1756. (3597) When nonresidents entitled to school privi- (r.c.c.)
leges.—Any parent or guardian residing within the state who shall pay a local or special tax on real estate valued at five hundred dollars or more, in any city, or school district, shall be entitled to the privileges and benefits of the public schools in such city, or school district, for their children, the same as parents and guardians resident therein. The provisions of the charter of any municipality, or separate school district, in conflict herewith, are expressly repealed.

1757. (3600) (1003) Separate schools for the two races.—In no case shall it be lawful to unite in one school children of the white and colored races.

ARTICLE 14.

EXAMINATIONS IN PUBLIC SCHOOLS. 1758.

1758. (3599) (1002) Public examinations, and certificates to pupils.—Public examinations must be held in the public schools at least once in every year; and when the board of education shall be satisfied that any pupil has become thoroughly educated in all the branches of free instruction in any one of such schools, they shall give to him or her a certificate to that effect.

ARTICLE 15.

SCHOLASTIC PERIODS. 1759.

1759. (3598) (1001) Scholastic periods.—The scholastic year shall begin on the first day of October of each year, and end on the thirtieth day of September of the following year; twenty days shall constitute a school month, and a school day shall be not less than six hours.

ARTICLE 16.

APPORTIONMENT OF SCHOOL FUND; DISBURSEMENT. 1760-1780.

SECTION.

1760. State auditor certifies amount of educational fund; superintendent apportionments.
1761. Contingent expenses and amount for normal school set apart; residue apportioned.
1762. Amounts apportioned certified to auditor; no warrants drawn in excess; balance unapportioned certified to treasurer.
1763. Superintendent must certify and report amount of school fund apportioned to the several counties to the county superintendents of education.
1764. Interest on sixteenth section or other trust fund first set apart; effect of apportionment.
1765. Apportionment of school fund to school districts of the several counties.
1766. Report of apportionment by county boards of education to superintendent of education.
1767. County boards must keep record of apportionment.

SECTION.

1768. Apportionment recorded, and certified to county superintendents; when contracts for schools invalid.
1769. Poll tax received by each county.
1770. Amount due each county apportioned and certified to auditor.
1771. County superintendent shall make pay-rolls.
1772. State auditor shall draw warrant in favor of county superintendent.
1773. Teachers paid and receipts taken.
1774. Balance in hands of county superintendent charged to him.
1775. County superintendent failing must be removed.
1776. Apportionment and expenditure of local school money.
1777. Apportionment of income from trust fund when township divided.
1778. Fund once apportioned, not used for other purposes until reapportioned.
1779. What part of income new districts are entitled to.
1780. Contingent fund for department of education.

1760. (3601) (1004) State auditor certifies amount of educational fund; superintendent apportionments.—On the first day of October of each year, or as soon thereafter as practicable, the state auditor shall certify to the superintendent of education the amount of money which has accrued and been placed by him to the credit of the educational fund for the scholastic year commencing on that day, stating specifically the amount derived from each source, and any unexpended balance there may be from the appropriation of the previous year to be carried forward; and the amount so certified shall be apportioned by the superintendent of education, and be drawn and disbursed as provided by law.

(Aikin's Digest, p. 376, § 26; Feb. 7, 1878, p. 117, § 3.)—Gay v. Bankston, 100 Ala. 280 (13 So. 939).

1761. (3602, 3605) (1005, 1008) Contingent expenses and amount for normal school set apart; residue apportioned.—As

Apportionment of School Fund; Disbursement.

soon as such certificate is received by the superintendent of education, he shall set apart the following amounts for normal schools, to wit: For the normal schools at Florence, Troy, Jacksonville, and at Livingston, fifteen thousand dollars each; and for other normal schools, such sums as are provided by law, and he shall then apportion all the remainder of such fund, as far as practicable, among the several counties in the state in proportion to the number of school children of school age therein, according to the latest returns of enumeration of school population of the counties which have been made to his office, but if such enumerations have not been made as provided by law, or have not been reported to him by the county superintendent of education, and the superintendent of education has not caused a new enumeration to be made, he shall then apportion to each county according to the best information he can obtain of the entire number of children of school age in such counties, but in no event shall he, in case of such failure to enumerate or report all the children of school age in the respective counties, estimate the school population of any county at more than the last official report to his office.

Const., 266;
amended
Sept. 9,
1903, p.
233, § 1;
Feb. 23,
1907, p.
122, § 1.

(Feb. 7, 1878, p. 117, § 53.)—Gay v. Bankston, 100 Ala. 280 (13 So. 939).

1762. (3603) (1006) Amounts apportioned certified to auditor; no warrants drawn in excess; balance unapportioned certified to treasurer.—As soon as such amounts have been set apart, and such apportionment has been made, the superintendent of education shall certify to the state auditor the amount set apart for each particular purpose or appropriation, and the total amount of the apportionment to the several counties, and the state auditor shall see that no warrants are drawn against the educational fund, for any purpose, for any amount in excess of the amounts so certified as set apart and apportioned; and he shall certify to the state treasurer the amount of the school revenue, exclusive of poll tax, unapportioned by the superintendent of education, and the treasurer shall set apart the amount out of any money received from the taxes of the current year, and he shall keep the same separate and apart from all other revenues, and shall not pay out any of such money except upon warrants for school purposes.

(Feb. 7, 1878, p. 117, § 54.)

1763. Superintendent must certify and report amount of school fund apportioned to the several counties to the county superintendents of education.—As soon as practicable after the superintendent of education has apportioned to the several counties the amount of school funds in proportion to the number of school children of school age therein, he shall certify and report the amount to the respective county superintendents of

Apportionment of School Fund; Disbursement.

education, or to the county board of education in case there is no county superintendent of education, taking their receipts for such amounts so certified.

1764. (3604) (1007) Interest on sixteenth-section or other trust fund first set apart; effect of apportionment.—In making the apportionment of school money to the several districts, the superintendent of education shall first set apart to each township or other school district the amount due from the state thereto as interest on its sixteenth-section fund, or other trust fund held by the state; and all townships or school districts, having an income from such source, or from the lease or sale of sixteenth-section lands, shall not receive anything out of the balance of the educational fund to be apportioned, until all other townships or school districts, having no trust fund, shall have received from the general fund such amount as will give them an equal per capita apportionment with the townships or districts having such income.

Const.,
256.

1765. Apportionment of school funds to school districts of the several counties.—As soon as practicable after the superintendent of education has apportioned the school funds to the several counties and has certified the same to the county superintendents of education, the county boards of education shall apportion the funds awarded to their county to the several school districts in their counties, so as to provide, as nearly as practicable, school terms of equal duration in such school districts.

1766. Report of apportionment by county boards of education to superintendent of education.—As soon as practicable after the county boards of education have apportioned the school funds of their county for any scholastic year to the several school districts, they shall report in writing their proceedings to the superintendent of education, showing the amounts apportioned to the several school districts.

1767. County boards must keep record of apportionment.—County boards of education must keep a record of each and every apportionment of school funds of their counties to the several school districts.

1768. (3606) (1009) Apportionment recorded, and certified to county superintendents; when contracts for schools invalid.—As soon as such apportionment is completed, the superintendent of education shall have the same recorded in his office, in books kept for that purpose, showing the amount which has been apportioned to each school district, and the sources from which the same was derived, the amount to each district, and the number of children in the district upon which the apportionment was based; and he shall then furnish to each county

Apportionment of School Fund; Disbursement.

superintendent of education a certified copy from such books, showing the dividends of the educational fund to each township or district under the latter's supervision; and the amount so divided and certified shall be the total amount which each of such school districts shall be entitled to receive from the state, except the poll tax, during the current scholastic year; and no contract to pay for any school or schools, for any district more than the amount thus apportioned to it, together with such poll tax as it may receive, and such funds as may be in hand from any previous year, shall be valid against the state or township.

1769. (3607) (1010) Poll tax received by each county.—Each county shall receive as school money all the poll tax collected therein; and the same shall be its full distributive share of the aggregate poll tax collected in this state.

1770. (3609) (1012) Amount due each county apportioned and certified to auditor.—The superintendent of education shall, by the tenth day of October in each year, or as soon thereafter as practicable, apportion to every county the amount of school money such county will be entitled to receive for the scholastic year from all sources except such special tax, if any, levied for school purposes in any county; and he shall certify the same to the state auditor.

1771.. (3610) County superintendent shall make pay rolls. Amended,
Mar. 24,
1908, p.
158, § 1.
—On the fifteenth day of each month the county superintendents of education shall make in duplicate, for each race separately, a pay roll showing the names of all teachers engaged in teaching public schools in their counties, with their postoffice address, and the estimated amount that will be due to each teacher at the end of the current month from the funds of each township and range or district in its regular numerical order; and shall append thereto an affidavit that the same is correct. One of such duplicate pay rolls shall be retained by the county superintendent of education, and the other he shall forthwith forward to the superintendent of education, who shall examine the same, and if found correct, it shall be approved by him and filed with the state auditor.

1772. (3611) State auditor shall draw warrant in favor of county superintendent. Amended,
Dec. 16,
1898, p.
45, § 1.
—The state auditor shall, immediately upon the receipt of such pay roll, draw a warrant on the state treasury in favor of the county superintendent of each county for a sum which will be equivalent to the amount estimated to be due on said pay roll, and four per cent thereon, and shall file said warrant, together with the pay roll upon which it is based, with the state treasurer, whereupon it shall be the duty of the state treasurer to forward by express or exchange,

Apportionment of School Fund; Disbursement.

whichever way may be the cheapest, at the expense of the state, to the county superintendent, the amount of such warrant, and the pay roll and duplicate receipts for said sum; provided, that whenever the warrant and pay roll upon which it is based for any county is filed with the state treasurer, it shall be the duty of the treasurer to immediately ascertain from the tax collector of such county if he has state funds in hand sufficient to pay such warrant; and if he has, the state treasurer must forward such warrant, together with the pay roll, to the county superintendent, and upon receipt of such warrant and pay roll the county superintendent shall present the warrant to the tax collector for payment, and the tax collector is authorized to cash such warrant when presented, properly indorsed, by the county superintendent, whereupon it shall be the duty of the tax collector to forward by mail such warrant, after indorsement by both the county superintendent and himself, to the state treasurer for credit on his account with the state. The county superintendent of education must immediately upon receipt of said sum sign the duplicate receipts and return one to the treasurer, who shall attach it to the appropriate warrant, and the other shall be returned to the auditor.

Amended,
Mar. 24,
1908, p.
158, § 2.

1773. (3612) Teachers paid and receipts taken.—Immediately upon the receipt by the county superintendent of the amount of the monthly pay roll he shall pay the teachers, taking their receipt therefor on both copies of said pay roll, and must by the fifteenth day of each month return one copy of such receipted pay roll to the superintendent of education. Provided, that in case any teacher should fail to call for the amount due him (or her), the county superintendent of their respective counties shall, at the expense and request of said teacher, mail the said teacher a registered letter or check on some bank in their respective counties for the amount due him; provided, that in no case shall the county superintendent pay a teacher or mail him a registered letter or check unless the teacher's monthly report, duly certified to, is on file.

1774. (3615) Balance in hands of county superintendent charged to him.—Upon the return of the receipted pay roll to the superintendent of education, if it should appear that there is a balance in the hands of the county superintendent, the amount of such balance shall be charged to him and shall be deducted from the amount of the next monthly pay roll.

1775. (3616) County superintendent failing, must be removed.—Any county superintendent, or superintendent of any separate school district, who fails to make and return any pay roll required by this article, or who fails to sign and re-

Apportionment of School Fund; Disbursement.

turn the receipts herein provided for, or who fails to pay the teachers within fifteen days after the receipt by him of the money, or who fails to return the receipted pay roll, must be removed from office by the superintendent of education.

1776. (3617) (1016) Apportionment and expenditure of local school money.—All local school funds raised for the support of public schools by taxation or otherwise shall be apportioned and expended in the district or districts or counties in which the same were raised, under such rules and regulations as the district trustees, or other local authority provided by law, may prescribe; but this section shall not be construed to repeal any provision for the apportionment and disbursement of moneys mentioned in this chapter, or provided for in special or local laws; and all funds contributed by persons, or otherwise, to such district, shall be applied as indicated in the grant from such contributors; and no school moneys distributed to the various counties from the state school revenue shall, either directly or indirectly, be paid for the erection of schoolhouses, for the use of schoolroom furniture, or any other contingent expenses of schools.

1777. (3618) (1017) Apportionment of income from trust fund when township divided.—Whenever a township or district which has an income from a trust fund is divided by a state or county line, or otherwise, into separate districts, or includes a city which is a separate school district, such income must be divided between and apportioned to each school district in such township or district, according to the school population of each.

1778. (3620) (1019) Fund once apportioned, not used for other purposes until reapportioned.—Funds which have accrued and have been apportioned to any district or race shall not be used for the benefit of any other district or race until the same shall have been reapportioned under the provisions of this Code.

1779. (3621) (1020) What part of income new districts are entitled to.—Whenever any separate school district is created, which shall embrace parts of two or more districts, such district shall receive its proportionate share of the income from any trust fund belonging to either or both of such districts, according to its school population.

1780. (3622) (1021) Contingent fund for department of education.—The state treasurer shall annually set apart, out of any money in the treasury, the sum of one thousand dollars, as a contingent fund for the department of education; and whenever it shall become necessary to draw on such fund, the superintendent of education shall certify the amount

School Lands; Lease and Sale.

necessary, and for what purpose, to the auditor, who shall draw his warrant on the treasurer for such amount. The superintendent of education shall keep an accurate account of all sums which he shall certify to be paid out of such contingent fund, and shall furnish an itemized statement thereof to the governor each year, with his annual report.

ARTICLE 17.

SCHOOL LANDS; LEASE AND SALE. 1781-1804.

SECTION.

- 1781. What are school lands; and in whom vested.
- 1782. Sale of school and indemnity lands authorized.
- 1783. Consent of inhabitants of township or district to sale of land.
- 1784. Resale of lands.
- 1785. Proceeds of sale; how disposed of.
- 1786. Notes taken by superintendent of education held until paid; when placed with the attorney-general.
- 1787. Manner and terms of sale.
- 1788. Timber lots reserved.
- 1789. Timber lots; how used.
- 1790. Penalty for injuries to timber.
- 1791. Fines paid into treasury for school fund.
- 1792. Certificate of purchase.
- 1793. Effect of certificate of purchase.

SECTION.

- 1794. Revesting of title; clerk to certify facts; penalty for failure; costs.
- 1795. Fines to go to school fund.
- 1796. Patent.
- 1797. Issue of patent by secretary of state; correction of mistake.
- 1798. Issue of patents in other cases.
- 1799. Collection of past-due notes.
- 1800. Appointment of agents for collection of notes.
- 1801. Township credited with collection on notes.
- 1802. Proceeds of school lands covered into treasury; faith and credit of state pledged for payment of interest.
- 1803. Lease of school and indemnity lands.
- 1804. Compromises; board of, as to school lands.

1781. (3625) (1023) (962) (575) (501) What are school lands, and in whom vested.—School lands, within the meaning of this Code, are sections numbered sixteen, in every township granted by the United States for the use of schools in the township, and such other lands as may have been granted to any township or district for the use of schools; and all school lands are vested in the state in trust to execute the objects of the grant.

(NOTE.—This article makes sales of sixteenth section and indemnity lands uniform.)

(Aikin's Digest, p. 373, § 19; Clay's Digest, p. 520, § 7.) Relation between the state and lands granted to the state for school purposes is that of trustee and cestui que trust; the trustee is a law to itself.—Yerby v. Sexton, 48 Ala. 311; Mobile Commission v. Putnam, 44 Ala. 506. Who may issue as to sixteenth section claims.—Yerby v. Sexton, 48 Ala. 311. Township superintendent is a sworn officer.—Jones v. State, 100 Ala. 209 (14 So. 115). Action of ejectment.—Gaston v. State, 88 Ala. 459 (7 So. 340); Miller v. State, 38 Ala. 600. Legal title to sixteenth section lands is in the state, in trust for the inhabitants of the respective townships in which the lands lie; sales of such lands.—Long v. Brown, 4 Ala. 622. School commissioners no power to take and hold land or to bring suits therefor; sales and recessions; sales of school lands.—Commissioners v. Aikin, 5 Port. 169.

School Lands; Lease and Sale.

1782. (3661) Sale of school and indemnity lands authorized.—The superintendent of education is authorized and empowered to sell and dispose of all school lands, together with those which have been heretofore or may hereafter be certified to the state for the use and benefit of the several townships or districts in which was a deficiency in the amount of land originally certified to the state for their benefit, subject to the approval of the governor.

(Dec. 10, 1890, p. 88, § 1.)

1783. Consent of inhabitants of township or district to sale of land.—No school lands, except indemnity lands, shall be sold without the consent of the inhabitants of the township or district in which such lands are located. Said consent to be obtained and shown by a petition in writing addressed to the superintendent of education requesting and consenting to the sale of such lands signed by a majority of the legally qualified voters of the township or district, which petition must be verified by the affidavit of at least three of the signers, that a majority of the inhabitants of the township or district in which the lands are situated desire a sale thereof and that the persons making and signing said petition constitute a majority of the qualified electors residing in said township or district.

1784. (3646) (1044) (986) (607) (537) Resale of lands.—(r.o.c.) If any purchaser fails to make the payment, or give his notes with approved sureties, and secured by a mortgage on the land, as required, the land bid off by him must be immediately resold, if practicable, but if not practicable to make the resale at once, it must be resold at a future day, as if no sale had been made; and the first purchaser shall be responsible for the difference between his bid and the amount for which the land is subsequently sold, if such amount is less than the bid of such first purchaser.

(Feb. 22, 1876, p. 197, § 3.)

1785. (3662) Proceeds of sale; how disposed of.—The proceeds arising from such sales, after the payment of all proper costs and expenses thereof, shall be, by the superintendent of education, paid into the state treasury to the credit of the counties, townships, or school districts to which the same may belong in the proportion of their interest therein, so as to carry out the object and purposes of the original grants, gifts, or laws by which such lands were acquired for school purposes, as nearly as practicable under the existing school laws.

1786. (3663) Notes taken by superintendent of education held until paid; when placed with the attorney-general.—All (r.c.c.)

School Lands; Lease and Sale.

notes taken by the superintendent of education for the purchase of such lands must be secured by mortgage and must be held by him until the same are due, and if not then paid, may be placed with the attorney-general for collection.

(r.o.c.)

1787. (3664) Manner and terms of sale.—Such sales may be made from time to time, at public or private sale, as in the judgment of the superintendent of education shall best promote the interest of the school fund of the state, and shall be for cash, or part cash and part on time, as the superintendent of education and the governor may deem best; but in no case shall there be less than one-fourth of the purchase money paid in cash, and the remainder shall be payable in yearly installments to extend over a period of not more than three years, and shall be secured by notes with sureties and by mortgage on the land to be approved by the superintendent of education, and shall bear interest from the date of the sale.

1788. (3626) (1025) (967) (588) (519) Timber lots reserved.—The superintendent of education may select such lots as he thinks proper, to reserve from cultivation for the benefit of the timber thereon, and must mark the same "reserved" on the plat thereof.

1789. (3631) (1030) (972) (593) (524) Timber lots; how used.—The lots reserved for timber are for the common benefit of the lessees of the other lots; but no timber must be cut down, injured, or destroyed, as long as there is sufficient on the other lots, which the superintendent of education is to determine; and the lessees must in no case cut down, injure, or destroy such timber without permission from the superintendent of education, which may be given on such terms as he may think proper, having due regard to the interest of the township or district.

1790. (3632) (1031) (973) (594) (525) Penalty for injuries to timber.—Any person who, without authority, cuts down, boxes, injures, or destroys any tree on school lands shall forfeit and pay for every such tree ten dollars, to be recovered before any court having jurisdiction, in the corporate name of the township, or the school district in which such lands are located.

1791. (3633) (1032) (974) (595) (526) Fines paid into treasury for school fund.—All fines and forfeitures under the preceding section shall be paid into the state treasury, and added to the principal of the school fund of the township.

(Aikin's Digest, p. 382, § 54; Clay's Digest, p. 530, § 52.) Patent to the "heirs of Gabriel T. Mathis, deceased," not void.—*Payne v. Mathis*, 92 Ala. 585 (9 So. 605). Patent issued to deceased person, transfer of Indian Reservation.—*Turner v. Smith*, 38 Ala. 135.

School Lands; Lease and Sale.

1792. (3647) (1045) (987) (608) (538) Certificate of purchase.—The superintendent of education, on receiving from the purchaser the cash payment, and his notes and mortgages for the deferred payments, must give to him a certificate of purchase, describing the lands purchased, and showing the number of acres and the amount of the purchase money.

(Feb. 7, 1879, p. 117, § 81.) Ejectment by purchaser of school lands.—*Prestwood v. Watson*, 111 Ala. 604 (20 So. 600). The law presumes that trustees will do their duty as to these sections of the Code.—*Jones v. State*, 100 Ala. 209 (14 So. 115). Action to recover purchase price of sixteenth section land.—*Jones v. State*, 100 Ala. 209 (14 So. 115). Action of ejectment.—*Gaston v. State*, 88 Ala. 459 (7 So. 340); *Miller v. State*, 38 Ala. 600. Legal title to sixteenth section land is in the state, in trust for the inhabitants of the respective townships in which the lands lie; sales of such land.—*Long v. Brown*, 4 Ala. 622. Elections, necessity of, as to sale of sixteenth section land.—*Tankersly v. State Bank*, 6 Ala. 277. School commissioners no power to take and hold lands or to bring suits therefor; sales and rescissions; sales of school lands.—*Commissioners v. Aiken*, 5 Port. 169. Certificate conveys legal title subject to be defeated.—*Watson v. Prestwood*, 79 Ala. 416.

1793. (3648) (1046) (988) (609) (539) Effect of certificate of purchase.—Such certificate conveys to the purchaser, his heirs, or assigns, a conditional estate in fee, to become absolute on the payment of the purchase money and interest, and to revert to the state for the uses originally granted in the following cases:

1. When all the notes have become due, and the makers have left the state, or died insolvent.
2. When a recovery on such notes is defeated by any defense avoiding the contract of sale.
3. When a recovery is had against all the makers, and execution has been returned "no property" by the proper officer of the county in which the township or district lies; or when judgment is had and execution returned against any one or more of such makers "no property," and the others have left the state, or died insolvent.

1794. (3649) (1047) (989) (610) (540) Revesting of title; clerk to certify facts; penalty for failure; costs.—No proceeding is necessary to re-vest the title in the state on the happening of the events specified in the preceding section, but such lands may be recovered in the name of the state, for the use of the township or district, against any person in possession of the same, upon proof of the facts; and it is the duty of the clerk of the court in which the suit is pending, or the judgment recovered, to certify the facts to the superintendent of education, on the happening of the events specified in the second and third subdivisions of the preceding section, and failing to do so within a reasonable time, he forfeits the sum of one hundred dollars; one-half to the person suing for the same, and the other to the state for the use of the township or

School Lands; Lease and Sale.

district. When no money is recovered in suits on notes for purchase money of school lands, no costs must be taxed against the township or district for such suits.

1795. (3651) (1049) (991) (613) (543) **Fines go to school fund.**—The amount received by the state upon recoveries had under the last preceding section is to be added to the principal of the school fund of the township or district.

1796. (3652) (1050) (992) (614) (544) **Patent.**—A patent issues, on the payment of the purchase money, to the purchaser, his heirs, or assigns; and when the patent is to the heirs, it vests a title in all persons entitled to claim in that capacity under the provisions of this Code.

1797. (3653) (1051) (993, 996) (615, 616) **Issue of patent by secretary of state; correction of mistake.**—The secretary of state must issue patents, upon satisfactory evidence furnished him of full payment of purchase money, to any person, agent, or other officer legally authorized to receive such payment; and upon proof of a mistake in the issue of any patent, he must correct the same, or issue a new patent on the return of the original to his office.

1798. (3654) (1052) (995) (617) (545) **Issue of patents in other cases.**—Except under the provisions of the preceding section, no patent must issue without the certificate of the superintendent of education that the whole amount of the purchase money specified in the certificate, with all interest thereon, has been paid.

1799. (3655) (1053) (998) **Collection of past due notes.**—All notes for school lands held by or deposited with the superintendent of education, if not paid within six months after maturity, must be placed with the attorney-general for collection; but this section shall not be so construed as to prevent the superintendent of education from ordering suit on notes at any time after maturity, when so ordered by the sureties on the notes.

1800. (3656) (1054) (999) **Appointment of agents for collection of notes.**—The superintendent of education may appoint agents for surveying, mapping, or platting school lands and for the collection of notes for purchase money of land, being responsible for any neglect on the part of such agents.

1801. (3657) (1055) (1000) **Township credited with collection on notes.**—All collections on notes given for the sale or lease of school lands must be paid into the treasury of the state, to the credit of the proper township or district.

1802. (3658) **Proceeds of school lands covered into treasury; faith and credit of state pledged for payment of interest.**

School Lands; Lease and Sale.

—All funds now in the state treasury derived from the sale of sixteenth-section or other school lands, or which may hereafter accrue from sales of such lands, together with the redemption money of other lands in which former accumulations have been invested under an act approved March 1, 1881, entitled "An act to authorize the compromise and settlement of claims for school lands in this state," are covered into the state treasury and made available for general purposes; and the faith and credit of the state is pledged for the payment of the interest on such fund to the public schools of the state, at the rate of six per cent per annum.

1803. (3665) Lease of school and indemnity lands.—The superintendent of education may, with the approval of the governor, lease out all or any of the school or indemnity lands for a term not exceeding five years, or may enter into contracts permitting persons to mine ore, coal, or other minerals therefrom, upon a royalty, for a term not exceeding twenty years; and the net proceeds of all moneys received from the lease of such lands, or as a royalty for the minerals mined therefrom, shall be paid into the state treasury monthly, to the credit of the townships to which such lands belong, in the proportion of their interest therein.

1804. Compromises; board of, as to school lands.—The gov- (w.c.c.) ernor, superintendent of education, and attorney-general are constituted a board of compromise for the purpose of examining into the title or claim of the state to any sixteenth-section or other school lands which have illegally passed out of the possession of the state, or which have heretofore been disposed of by the state and not paid for. The board may take all action necessary to recover any such lands, or, if deemed best, may settle and compromise any conflicting claims thereto between the state and persons claiming the land. When any compromise or settlement is made the secretary of state shall, upon the order of the board of compromise, issue patents to the land the claims to which have been so compromised.

Text-book Commission; Members, Appointment of.

ARTICLE 18.

TEXT-BOOK COMMISSION; MEMBERS, APPOINTMENT OF. 1805-1850.

SECTION.

- 1805. Text-book commission; how constituted.
- 1806. Oath of commissioners.
- 1807. Commission; organization of.
- 1808. Duties of commission.
- 1809. Unlawful to use other books than those selected.
- 1810. Branches of study for which books selected.
- 1811. Partisan or sectarian books forbidden.
- 1812. Books selected may be dropped.
- 1813. Qualities and merits of books control in selection.
- 1814. Desirable books; when price too high.
- 1815. Advertisement for bids.
- 1816. Bids, specifications, requisites, and contents of bids.
- 1817. Deposit as security for performance of bid.
- 1818. Bids sealed and deposited.
- 1819. Bids opened, examined, and contract awarded.
- 1820. Notification to publishers of contracts awarded.
- 1821. Contract; preparation, execution, and filing of.
- 1822. Bond of contractor; preparation, execution, and conditions of.
- 1823. Deposit returned after execution of bond.
- 1824. Failure to execute contract or bond; consequence of.
- 1825. Recovery on bond for benefit of fund.
- 1826. Books furnished must be equal to specimens.
- 1827. Secretary of state preserves sample copies and furnishes to superintendent.
- 1828. Contract and exchange price printed on back of books.

SECTION.

- 1829. Price of books for this state shall not exceed that of others.
- 1830. Changing or altering contract.
- 1831. Majority controls.
- 1832. State not liable to any contractor.
- 1833. Old books exchanged for new.
- 1834. Rejecting bids or proposals.
- 1835. Re-advertisement for bids.
- 1836. Bids for copyright and manuscripts.
- 1837. Manuscripts or printed form of matter proposed to be incorporated in book.
- 1838. Proclamation of governor announcing contract.
- 1839. Three depositories or places of sale in each county.
- 1840. Contract price printed on books.
- 1841. Distribution of books.
- 1842. Commission continues for five years; new commission appointed.
- 1843. List of books, agencies, and prices furnished to county superintendent of education.
- 1844. Supplementary text-books, books for higher or more advanced studies.
- 1845. Other books used upon failure to furnish those adopted.
- 1846. Appropriation.
- 1847. Compensation of commissioners.
- 1848. Clerk of commission; compensation of.
- 1849. Books adopted continue for five years.
- 1850. Failure to furnish books; contract for unexpired term.

Aug. 13,
1907, p.
702, § 1.

1805. Text-book commission; how constituted.—On or before March 1st, 1908, the governor shall select and appoint nine educators of known character and ability, men well acquainted with arranging courses of study and engaged in public school work, one from each congressional district, who, together with himself and the state superintendent of education, shall constitute the text-book commission of Alabama.

Text-book Commission; Members, Appointment of.

1806. Oath of commissioners.—Before transacting any business pertaining to the duties of this commission, they shall each take an oath before some person authorized to administer oaths, to faithfully discharge all the duties imposed upon them as members of said text-book commission, and that they have no interest, directly or indirectly, in any contract that may be made under this article, and receive no personal benefit therefrom. Aug. 13,
1907, p.
702, § 1.

1807. Commission; organization of.—The text-book commission shall immediately after their appointment meet and organize, the governor being president of the commission and the superintendent of education secretary of said commission. Ib., § 2.

1808. Duties of commission.—It shall be the duty of said commission to select and adopt a uniform series of text-books for use in the public schools of the state for a period of five years. Ib., § 1.

1809. Unlawful to use other books than those selected.—It shall be unlawful for any school official, director, or teacher to use any books upon the same branches other than those adopted by said state text-book commission. Ib.

1810. Branches of study for which books selected.—Said uniform series shall include the following branches of study, to wit: Orthography, reading, writing, arithmetic, geography, grammar, language lessons, history of Alabama containing the constitution of the state, history of the United States, elementary physiology and hygiene, elementary principles of agriculture, and such other branches of study as properly belong in a common school course. Ib.

1811. Partisan or sectarian books forbidden.—None of said text-books shall contain anything of a partisan or sectarian character. Ib.

1812. Books selected may be dropped.—The text-book commission shall have the power by three-fourths vote to drop an unsatisfactory book at the end of any school year during the continuance of the contract and to make another adoption. Ib.

1813. Qualities and merits of books to control in selection.—The text-book commission shall consider the merits of each book, taking into consideration their subject-matter, the printing, binding, material, and mechanical qualities, and their general suitability and desirability for the purpose intended, as well as the price of said books, but no text-book the subject-matter of which is of inferior quality shall be adopted by the text-book commission. Said commission shall select and adopt such books as will, in their best judgment, accomplish the ends desired. Ib., § 2.

Text-book Commission; Members, Appointment of.

Aug. 13,
1907, p.
702, § 2

1814. Desirable books; when price too high.—In case any book or books are deemed suitable for adoption and more desirable than other books of the same class submitted, and they further consider the price at which the books are offered to be unreasonably high, and that they should be offered at a smaller price, the commission shall immediately notify the publisher or author of such book or books of their decision, and request such reduction in price as they deem reasonable and just, and if they and such publishers shall agree on a price they may adopt his book or books, but if not, they shall use their own sound judgment and discretion whether they will adopt that or the books which are deemed by them next best in the list published.

Ib., § 2.

1815. Advertisement for bids.—As soon as practicable, not later than thirty days after its organization, the commission shall advertise in such manner and for such length of time and at such places as may be deemed advisable, that at a time and place fixed definitely in said advertisement, sealed bids or proposals will be received from the publishers of school text-books for furnishing books to the public schools in the State of Alabama, through such agencies in the several counties, and places in the several counties in the state, as may be provided for in such regulations as said commission may adopt and prescribe.

Ib.

1816. Bids; specifications, requisites, and contents of.—The bids or proposals shall be for furnishing the books for a period of five years and no longer, and that no bid for a longer period will be considered. Said bids shall state specifically and definitely the price at which the books will be furnished, and shall be accompanied by one or more specimen copies of each and every book proposed to be furnished.

Ib.

1817. Deposit as security for performance of bid.—It shall be required of each bidder to deposit with the treasurer of the state a sum of money such as the commission may require, not less than five hundred dollars nor more than twenty-five hundred dollars, according to the number of books each bidder may propose to supply, and notice shall further be given in such advertisement that such deposits shall be forfeited absolutely to the state if the bidder making the deposit shall fail or refuse to make and execute such contract and bond as is hereinafter required, within such time as the commission may require, which time shall also be stated in the advertisement.

Ib.

1818. Bids sealed and deposited.—All bids shall be sealed and deposited with the secretary of state, to be by him delivered to the commission when they are in executive session,

Text-book Commission; Members, Appointment of.

for the purpose of considering the same, when they shall be opened in the presence of the commission.

1819. Bids opened, examined, and contract awarded.—The text-book commission shall meet at the time and place designated in such notice or advertisement, and take out the sample or specimen copies submitted upon which the bids are based. When the members have examined all books submitted until thoroughly satisfied, it shall be the duty of said text-book commission to meet in executive session to open and examine all sealed proposals submitted and received in pursuance of the notice or advertisement provided for in section 1815 of this Code. The commission shall then examine and carefully consider such bids or proposals and determine in the manner provided in the preceding sections of this article what book or books shall be selected for adoption, taking into consideration the size, quality as to subject-matter, material, printing, binding, and the mechanical execution and price, and the general suitability for the purpose desired and intended; all books selected and adopted shall be written or printed in English.

Aug. 13,
1907, p.
762, § 4.

1820. Notification to publishers of contracts awarded.—^{1b.} After their selection for adoption shall have been made, the said commission shall by registered letter notify the publishers or proposers to whom the contracts have been awarded.

1821. Contract; preparation, execution, and filing of.—^{1b.} The attorney-general of the state shall prepare the said contract or contracts in accordance with the terms and provisions of this article, and the said contract shall be executed by the governor and secretary of state with the seal of the state attached upon the part of the State of Alabama, and the said contract shall be executed in triplicate, one copy to be kept by the contractor, one copy by the secretary of the text-book commission and copied in full in the minutes of said commission, and one copy to be filed in the office of the secretary of state.

1822. Bond of contractor; preparation, execution, and conditions of.—^{1b.} At the time of the execution of the contract aforesaid the contractors shall enter into a bond in the sum of not less than ten thousand dollars nor more than thirty thousand dollars, payable to the State of Alabama, the amount of said bond within said limits to be fixed by said commission conditioned for the faithful, honest, and exact performance of the contract, and shall further provide for the payment of reasonable attorney's fees in case of recovery in any suit upon the same, with three or more good, solvent sureties, actual

Text-book Commission; Members, Appointment of.

citizens and residents of the State of Alabama, or any guaranty company authorized to do business in the State of Alabama may become surety on said bond. The attorney-general shall prepare said bond and approve the same. The said bond shall not be exhausted by a single recovery, but may be sued on from time to time until the full amount shall be recovered; and the said commission may at any time, by giving thirty days' notice, require additional security or additional bond, within the limit prescribed.

Aug. 13,
1907, p.
782, § 4.

1823. Deposit returned after execution of bond.—When any person, firm, or corporation shall have been awarded a contract and submitted therewith the bond as required in this article, the commission through its secretary shall so inform the treasurer of the state, and the treasurer shall return such contractor the cash deposit made by him, and the commission through its secretary shall inform the treasurer of the names of the unsuccessful bidders or proposers, and the treasurer shall, upon receipt of this notice, return to them the amount deposited in cash by them at the time of the submission of their bid.

ib.

1824. Failure to execute contract or bond; consequence of.—Should any person, firm, company, or corporation fail or refuse to execute the contract and submit therewith his bond as required by this article within thirty days of the awarding of the contract to him and the mailing of the registered letter containing the notice (provided the mailing of the registered letter shall be sufficient evidence that the notice was given and received), the cash deposit will be deemed forfeited to the State of Alabama, and the treasurer shall place such cash deposit in the treasury of the state to the credit of the general school fund.

ib.

1825. Recovery on bond for benefit of fund.—Any recovery had on any bond given by any contractor shall inure to the benefit of the said fund of the state, and when collected shall be placed in the treasury to the credit of the said fund and be prorated among the several counties of the state.

ib., § 5.

1826. Books furnished must be equal to specimens.—The books furnished under any contract shall at all times during the exercise of the contract be equal to, in all respects, the specimens or sample copies furnished with bids.

ib.

1827. Secretary of state preserves sample copies and furnishes to superintendent.—The secretary of state shall carefully preserve in his office as the standard of quality and excellence to be maintained in such books during the continuance of such contracts the specimens or sample copies of all books which have been made the basis of any contract, to-

Text-book Commission; Members, Appointment of.

gether with the original bid or proposal, and the contractor shall also furnish each county superintendent of education like specimen or sample copies, which shall be preserved by him in like manner, and the same shall always be open to the inspection of the public.

1828. Contract and exchange price printed on back of books. Aug. 18, 1907, p. 702, § 5.
—All contractors shall print plainly on the back of each book the contract price, as well as the exchange price at which it is agreed to be furnished, but the books submitted as specimen or sample copies with the original bids shall not have the price printed on them before they are submitted to the commission.

1829. Price of books for this state shall not exceed that of others. ib.—The text-book commission shall not in any case contract with any person or publisher for the use of any books which are to be sold to patrons or used in any public school in this state at a price above or in excess of the price at which such book or books are furnished by said person or publisher under contract to any state, county, or school district in the United States under like conditions prevailing in this state and under this article. It shall be stipulated in each contract that the contractor has never furnished and is not now furnishing under contract any state, county, or school district in the United States where like conditions prevail as are prevailing in this state under this article, the same book or books as are embraced in said contract at a price below or less than the price stipulated in the said contract, and the said commission at any time they may find that any book has been furnished at a lower price under contract to any state, county, or school district aforesaid, shall sue upon the bond of said contractor and recover the difference between the contract price and the lower price at which they find the book or books have been sold, and in case a contractor shall fail to execute, specifically, the terms and provisions of his contract, said commission shall bring suit upon the bond of such contractor for the recovery of all damages, the suit to be in the name of the State of Alabama, and the recovery for the benefit of the public school fund.

1830. Changing or altering contract.—The commission and any contractor agreeing thereto may in any manner change ib. or alter any contract, provided a majority of the commission shall agree to the change and think it advisable and for the best interest of the public schools of the state.

1831. Majority controls.—In all matters unless otherwise ib. provided a majority of said commission shall control.

Text-book Commission ; Members, Appointment of.

- Aug. 18,
1907, p.
703, § 6.
- 1832. State not liable to any contractor.**—It shall always be a part of the terms and conditions of every contract made in pursuance of this article, that the State of Alabama shall not be liable to any contractor in any manner, in any sum whatsoever, but all such contractors shall receive their pay or consideration in compensation solely and exclusively derived from the proceeds of the sale of books, as provided for in this article.
- 1b.
- 1833. Old books exchanged for new.**—The commission shall stipulate in the contract for the supplying of any book as provided in this article that the contractor or contractors shall take up the school books now in use in this state, and receive the same in exchange for new books at a price not less than fifty per cent of the contract price. Such exchange period shall not continue longer than one year from the date of contract. Each person or publisher making a bid for the supplying of any book or books under this article shall state in such bid or proposal the exchange price at which such book or books will be furnished.
- 1b., § 7.
- 1834. Rejecting bids or proposals.**—The text-book commission shall have and reserve the right to reject any and all bids or proposals if they shall be of opinion that any or all should for any reason be rejected.
- 1b.
- 1835. Re-advertisement for bids.**—In case the commission fails from among the bids or proposals to select or adopt any book or books upon any of the branches mentioned in previous sections of this article, they may re-advertise for sealed bids or proposals under the same terms and conditions as before, and proceed in their investigations in all respects as they did in the first instance, and as required by the terms and provisions of this article.
- 1b.
- 1836. Bids for copyright and manuscripts.**—The commission may advertise for sealed bids or proposals from authors or publishers of text-books who have manuscripts of books not yet published, for prices at which they will publish and furnish in book form such manuscripts, or for prices at which they will sell such manuscripts, together with the copyright with such books, for use in the public schools of Alabama, proceeding in all respects in like manner as before. Before accepting or rejecting any manuscript it shall be the duty of the commission to take the manuscript and to advertise for sealed bids or proposals for publishing the same in book form, in like manner as provided in this article, and under the same restriction and condition, and the contract may be let for the publication of all such books or for any one or more separately. The state itself shall not under any circumstances

Text-book Commission; Members, Appointment of.

enter into any contract binding it to pay for the publication of any book or books, but in the contract with the owner of the manuscript it shall be provided that he shall pay the compensation to the publisher for the publication and putting in book form the manuscript, together with the cost and expense of copyrighting the same; and provided that in all cases bids or proposals shall be accompanied with the cash deposit of from five hundred to twenty-five hundred dollars, as the commission may direct, and as previously provided in this article.

1837. Manuscripts or printed form of matter proposed to be incorporated in book.—Any person, firm, or corporation now doing business, or proposing to do business in the state, shall have the right to bid for the contract to be awarded under this article in the manner as follows: In response to the advertisement, when made as hereinabove provided, said person, firm, or corporation may submit in writing bid or bids to edit or have edited, publish and supply for use in the public schools in this state, any book or books herein provided for, provided that instead of filing with said bid or proposal a sample or specimen copy of each book proposed to be furnished, he may exhibit to the commission a manuscript or printed form of the matter proposed to be incorporated in any book, together with such a description and illustration of the form and style thereof as would be fully intelligible and satisfactory to said commission, or they may submit a book or books, the equal of which in every way they propose to furnish, and they shall accompany their bid or proposal with the cash deposit and execute a contract and bond as hereinbefore provided. Aug. 13,
1907, p.
702, § 7.

1838. Proclamation of governor announcing contract.—As soon as said commission shall have entered into a contract or contracts for the furnishing or supplying of books for use in the public schools in this state, the governor shall issue his proclamation announcing such facts to the people of the state. Ib., § 8.

1839. Three depositaries or places of sale in each county.—The party or parties with whom the contract shall be made shall place their books on sale at not less than three places in each county of the state for the distribution of the books to the patrons, and the contractor shall be permitted to make arrangements with a merchant or other person for the handling and distribution of the books. Ib., § 9.

1840. Contract price printed on books.—All books shall be sold to the consumer at the retail contract price, and in each book shall be printed the following: (The price fixed herein is fixed by state contract and deviations therefrom shall be reported to your county superintendent of education or the Ib.

Text-book Commission; Members, Appointment of.

state superintendent at Montgomery). Should any party contracting to furnish books as provided for fail to furnish them or otherwise breach his contract, in addition to the right of the state to sue on his bond hereinabove required, the county superintendent of any county may sue, in the name of the State of Alabama, in any court of competent jurisdiction in the county in which he resides, for the use and benefit of the school fund of the county; provided that the right of action of the county superintendent shall be limited to breaches of the contract committed in the county of his residence. In all cases under this article service of process may be had and deemed sufficient on any agent of the contractor in this state.

Aug. 13,
1907, p.
782, § 10.

1841. Distribution of books.—The commission shall, from time to time, make any necessary regulations to secure the prompt distribution of the books provided for in this article, and the prompt and faithful execution of all contracts.

Ib.

1842. Commission continues for five years; new commission appointed.—Said commission shall maintain its organization for five years, and at the end of said period of five years the governor shall name a similar commission with like powers and a like term as the first named commission.

Ib., § 11.

1843. List of books, agencies, and prices furnished to county superintendent of education.—As soon as practicable after the adoption, provided for in this article, the state superintendent of education shall issue a circular letter to each county superintendent of education and each teacher in the state, and to such others as he may desire to send it, which letter shall contain the list of books adopted, the prices, location of agencies, the manner of distribution, and such other information as he may deem necessary.

Ib., § 12.

1844. Supplementary text-books; books for higher or more advanced studies.—As soon as the existing contract for books expires the books adopted as a uniform series of text-books for the next five years shall be introduced and used as text-books to the exclusion of all others in all the public free schools in this state. Supplementary books shall be used, but such books shall not be used to the exclusion of the books prescribed or adopted under the provisions of this article. Higher or more advanced branches may be taught than provided in this article, but such higher branches or books shall not be taught to the exclusion of the branches or books mentioned in this article.

Ib., § 13.

1845. Other books used upon failure to furnish those adopted.—The patrons of the public schools throughout the state may procure books in the usual way in case no contract shall be made, or the contractor fails or refuses to furnish the

Election for Special Tax for Public Schools.

books provided for in this article at the time required for their use in the respective schools.

1846. Appropriation.—The sum of three thousand dollars, or so much thereof as may be necessary, to be paid out of the moneys in the treasury not otherwise expended, is appropriated for the purpose of paying the costs and expenses of carrying into effect the provisions of this article. Aug. 18, 1907, p. 762, § 17.

1847. Compensation of commissioners.—The governor and superintendent of education shall serve on the commission without compensation, and the other members of the commission shall be paid the sum of four dollars per day during the time they are actually engaged, and in addition shall receive ten cents per mile for each mile traveled from their homes to their place of meeting and return thereto, to be paid out of the funds appropriated by the preceding section, and they shall each make and swear to a statement of the number of miles traveled and the number of days actually engaged. Pb., § 18.

1848. Clerk of commission; compensation of.—The commission may appoint a clerk who shall have three dollars per diem during the time he is actually engaged and the same mileage as is allowed the members of the commission. Ib., § 19.

1849. Books adopted continue for five years.—The adoption made as provided for in this article shall continue for five years from the expiration of the existing contract, unless otherwise provided. Ib., § 20.

1850. Failure to furnish books; contract for unexpired term.—In case of the failure of any contractor to furnish the books as provided in his contract, his bond shall be declared forfeited, and the state school-book commission may make such other contract for the unexpired term with another person to provide such books as they may deem advisable for the best interest of the state. Ib., § 21.

ARTICLE 19.

ELECTION FOR SPECIAL TAX FOR PUBLIC SCHOOLS. 1851-1860.

SECTION.

- 1851. Petition for call for election.
- 1852. Notice and publication.
- 1853. Managers and officers of election as in general election.
- 1854. Qualified electors, etc.
- 1855. Ballot; form and manner of voting.
- 1856. Special tax levied and assessed.

SECTION.

- 1857. Time tax continues.
- 1858. Tax; how collected and disbursed.
- 1859. Election held at time for general election; costs of such election.
- 1860. Compensation of tax collector, tax assessors, and county superintendent of education.

1851. Petition for call for election.—Upon a petition signed by two hundred or more qualified electors of the county who

Election for Special Tax for Public Schools.

- Const.,
1901, § 222;
Oct. 1,
1908, p.
360, § 1.
- are also freeholders, to the court of county commissioners, or court of like jurisdiction in any county within the State of Alabama, the said court shall order an election to determine whether or not a special tax shall be levied for the support of the public schools within said county as hereinafter provided; but only one such election shall be held in any two years.
- Ib.
- 1852. Notice and publication.**—There shall be made publication of the same in some newspaper within the county, which publication shall show the rate of such proposed tax, the time it is proposed to be continued, and the purpose for which the levy is proposed to be made.
- Ib., § 2.
- 1853. Managers and officers of election as in general election.**—The inspectors and officers of the election shall be appointed and such elections shall be held and the result of said elections shall be declared in the same manner and by the same officers as is the result of the regular elections for county officers under the general laws of the state.
- Ib., § 6.
- 1854. Qualified electors, etc.**—All persons who are at the time of such election qualified electors in the county where such election is held under the laws and constitution of Alabama then in existence, shall be qualified electors to participate therein.
- Ib., § 8.
- 1855. Ballot; form and manner of voting.**—The court of county commissioners, or court of like jurisdiction, shall provide a sufficient number of ballots for each voting precinct within said county, and at the top of each ballot shall be printed the rate of such proposed tax, the time it is to be continued, and that the purpose is for the support of the public schools, and directly underneath in plain type shall be printed on different lines the words "For proposed taxation," "Against proposed taxation," and a place must be left directly to the left of each line thereof, and the voter favoring the proposed taxation will make a cross mark directly to the left of the line "For proposed taxation," and the voter not favoring proposed taxation will make a cross mark directly to the left of the line "Against proposed taxation."
- Const.,
299;
Oct. 1,
1903, p.
360, § 8.
- 1856. Special tax levied and assessed.**—If three-fifths of those voting at said election have voted for the proposed taxation, the court of county commissioners, or court of like jurisdiction, shall levy said special tax, and cause the tax assessor to assess the same on the taxable property in said county, which shall not exceed ten cents on each one hundred dollars of taxable property in said county; but the rate of such special tax shall not increase the rate of taxation, state and county combined, in any one year, to more than one dollar and

Election for Special Tax for Public Schools.

twenty-five cents on each one hundred dollars of taxable property in said county, but all special county taxes for public buildings, roads, bridges, and the payment of debts existing at the ratification of the constitution of 1875 shall not be included in the aforesaid one dollar and twenty-five cents on the one hundred dollars of taxable property.

1857. Time tax continues.—The time such special tax may continue shall not be less than two years. Oct. 1,
1903, p.
350, § 5.

1858. Tax; how collected and disbursed.—The tax collector shall collect such special tax in the same manner and under the same requirements and laws as taxes of the state are collected, and he shall keep said amount separate and apart from all other funds, and keep a clear and distinct account thereof, showing what amount is paid by the negro race and what amount is paid by the white race, and turn the same over to the county superintendent of education, whose duty it shall be to receipt therefor and apportion the same to the various schools throughout the county in the same manner as the general school funds from the state are apportioned in said county; provided, that the school terms of the respective schools shall be extended by such supplement as nearly the same length of time as practicable. Ib., § 4.

1859. Election held at time for general election; costs of such election.—The election hereinbefore provided for may be had at the time of holding any regular election within the county, and if held at such time the inspectors and officers of the general election shall conduct at the same time the election herein provided for; and for such services they shall receive no compensation other than that allowed them for the holding of the general election; but if such an election is had at any other time than that of holding a regular election within the county, then the election officers shall receive the same pay as that for holding a general election. Ib., § 5.

1860. Compensation of tax collector, tax assessor, and county superintendent of education.—The tax collector, tax assessor, and county superintendent of education shall receive for the services required of them under the provisions of this article the same per cent of the funds handled as they receive for like services as to general taxes. Ib., § 5.

SCHOOLS.
High Schools for Counties.

ARTICLE 20.

HIGH SCHOOLS FOR COUNTIES. 1861-1868.

SECTION.

1861. High school commission to locate and establish.
1862. Sites procured; annual donations paid quarterly.
1863. High schools controlled by high school commission and county board of education.

SECTION.

1864. Free schools and office of trustee not abolished.
1865. Qualifications and eligibility of teachers and students.
1866. Course of study.
1867. Matriculation fee.
1868. When article goes into effect.

Aug. 7,
1907, p.
728, § 1.

1861. High school commission to locate and establish.—The governor, auditor, and superintendent of education shall constitute a commission to locate one high school in each of the counties of this state; provided, that a high school shall not be established under the provisions of this article in any county in which there is already established an agricultural school, normal school for white people, the Polytechnic Institute, the University of Alabama, the Industrial School for White Girls, or a high school free to all the children of the county, until after a high school has been established in all the other counties.

Ib., § 3.

1862. Sites procured; annual donations paid quarterly.—For any county in which the citizens thereof shall secure a suitable site, which shall consist of not less than five acres of land the title to the surface of which shall be in fee (but the land need not include mineral rights), and erect thereon a good and substantial building with all the necessary equipments for a high school, the cost of said land, building, and equipments to be not less than five thousand dollars, and upon making a deed to the State of Alabama of said land, building, and equipments, there shall be appropriated out of any money in the treasury not otherwise appropriated the sum of two thousand dollars for the payment of the teachers in said high school or high schools complying with the provisions of this article, and this appropriation is hereby made to continue annually, the same to be paid quarterly upon warrants drawn by the county board of education in the county in which said high school is located, said warrant or warrants to be subject to the approval of the commission hereinbefore created; provided further, that none of said two thousand dollars shall be devoted to any other purpose whatever than the payment of teachers' salaries.

Ib., § 4.

1863. High schools controlled by high school commission and county board of education.—Said school or schools as hereinbefore established shall be under the direction and con-

University of Alabama.

trol of the said commission as a board of trustees in connection with the board of education in the county in which said high school is located.

1864. Free schools and office of trustee not abolished.—Aug. 7, 1907, p. 728, § 4. Nothing in this article shall be so construed as to abolish any free school in any district, or the office of trustee in any district in which said high school may be located.

1865. Qualifications and eligibility of teachers and students. Ib., §§ 5 and 6.—No teacher shall be eligible to teach in any high school established under the provisions of this article, unless holding a first-grade or life certificate. Nor shall any student be eligible to entrance into said high school unless said student can pass a satisfactory examination in the branches of free public instruction in the elementary schools of his or her county. Such schools shall be open to students of the white race regardless of age who have complied with the provisions of this section.

1866. Course of study.—A course of study for such school or schools shall be provided and required by the superintendent of education; but such course of study shall consist of secondary branches of study. Ib., § 7.

1867. Matriculation fee.—A matriculation fee of one dollar may be charged to each student to defray necessary expenses during each term. Ib., § 8.

1868. When article goes into effect.—This article shall not go into effect until the governor shall decide that the condition of the treasury will admit of the appropriation herein made. Ib., § 9.

ARTICLE 21.

UNIVERSITY OF ALABAMA. 1869-1892.

SECTION.

- 1869. Incorporation of university.
- 1870. General powers, duties, and liabilities of such corporation.
- 1871. Power of holding and disposing of property.
- 1872. University fund defined; credit of state pledged for payment of interest.
- 1873. When gift or grant not affected; what not a forfeiture.
- 1874. Rights, etc., of university continued in corporation.
- 1875. Powers of board of trustees; no exclusion from benefit of "university fund," etc.

SECTION.

- 1876. Classification of trustees; term and oath of office.
- 1877. Quorum of board of trustees; president pro tempore.
- 1878. Time and place of meetings of trustees.
- 1879. Proceedings of board recorded; employment of secretary; payment of expenses, etc.
- 1880. Report by board to the legislature.
- 1881. Interest on "university fund"; how payable.
- 1882. Right reserved to the legislature to revise and amend.

University of Alabama.

SECTION.

1883. Law department to receive second-hand text-books from state library.
1884. Law department must be supplied with Codes.
1885. Police of grounds; appointment, powers, and duties.
1886. Lands; sale, lease, or other disposition provided for.
1887. Executive committee created and authorized to act.

SECTION.

1888. Sales, leases, etc., ratified and confirmed.
1889. Medical department of University of Alabama.
1890. Quadrennial appropriations.
1891. Payment of appropriations in quarterly installments; exception.
1892. Report must show manner and purpose for which funds expended.

Amended,
Mar. 3,
1908, p.
109, § 1.
(r.c.c.)

1869. (3667) (1058) (1295) Incorporation of university.—The governor and the superintendent of education, by virtue of their respective offices, and the trustees heretofore appointed from the different congressional districts of the state under the provisions of section 264 of the constitution, and such other members as may be from time to time added to the board of trustees, and their successors in office, are constituted a body corporate under the name of "The board of trustees of the University of Alabama," to carry into effect the purpose and intent of the congress of the United States in the grant of lands by the act of April 20, 1818, and of the act of March 2, 1819, to this state, to be by it held and administered for the benefit of a seminary of learning.

Historical references: (Aikin's Digest, pp. 427-436, § 8; Clay's Digest, pp. 583-588, § § 1, 2; Mar. 1, 1876, p. 268, § 1.) Original act establishing the university passed Dec. 18, 1820; supplementary act passed Dec. 18, 1821.—Toulmin's Digest, pp. 547-552; supplementary act repealed and amended in part Dec. 24, 1822.—Toulmin's Digest, p. 561. University is simply an agency of the state.—State v. Sowell, 143 Ala. 494 (39 So. 246).

1870. (3668) (1059) (1296) General powers, duties, and liabilities of such corporation.—Such corporation shall have all the rights, powers, and franchises necessary to or promotive of the end of its creation, and shall be charged with all the corresponding duties, liabilities, and responsibilities.

(Aikin's Digest, p. 428, § 9; Clay's Digest, p. 583, § 3; Mar. 1, 1876, p. 268, § 2.)

1871. (3669) (1060) (1297) Power of holding and disposing of property.—Such corporation may hold, and may lease, sell, or in any other manner not inconsistent with the objects or terms of the grant or grants under which it holds, dispose of any property, real or personal, or any estate or interest therein, remaining of the original or any subsequent grant by congress, or by this state, or by any person, or accruing to the corporation from any source, including also the proceeds of the "University Fund," as to it may seem best for the purposes of its institution.

(Clay's Digest, p. 583, § 3; Mar. 1, 1876, p. 268, § 3.)

University of Alabama.

1872. (3670) (1061) (1298) University fund defined; credit of state pledged for payment of interest.—The fund designated in the preceding section as the "University Fund" consists of the sum of thirty-six thousand dollars per annum as interest on the funds of the University of Alabama, heretofore covered into the treasury, for the maintenance and support of said institution, which said sum of thirty-six thousand dollars shall be paid to the duly authorized agent of the university as hereinafter provided; and the further sum of twenty-five thousand dollars, annually, is added to and made a part of the university fund.

Const., §
265; Mar.
6, 1907, p.
367.
(r.c.c.)

(Mar. 1, 1876, p. 268, § 4.)

1873. (3671) (1062) (1299) When gift or grant not affected; what not a forfeiture.—No grant or gift, by will or otherwise, shall fail on account of any misnomer or informality, when the intention of the grantor or donor can be ascertained; nor shall any default, malfeasance on the part of the trustees or other officers or agents of such corporation, work a forfeiture of any of its rights, powers, privileges, or franchises.

(Aikin's Digest, p. 429, § 10; Clay's Digest, p. 583, § 4; Mar. 1, 1876, p. 268, § 5.)

1874. (3672) (1063) (1300) Rights, etc., of university continued in corporation.—In addition to the rights, properties, privileges, and franchises herein granted, all rights, properties, privileges, and franchises heretofore, by any act of the legislature, granted to or vested in the University of Alabama, shall vest and continue in such corporation.

(Mar. 1, 1876, p. 268, § 6.)

1875. (3673) (1064) (1301) Powers of board of trustees; no exclusion from benefit of "University Fund," etc.—The board of trustees have the power to organize the university by appointing a corps of instructors, who shall be styled the faculty of the university, and such other officers as the interest of the university may require; to remove any such instructors or officers, and to fix their salaries or compensation, and increase or reduce the same at their discretion; to institute, regulate, alter, or modify the government of the university, as they may deem advisable; to prescribe courses of instruction, rates of tuition, price of board, and regulate the necessary expenses of students; and to confer such academic and honorary degrees as are usually conferred by literary institutions. They may delegate to the faculty of the university, or other officers, such powers and functions in the government of the students, and in the administration of the affairs of the uni-

University of Alabama.

versity, as they may deem proper; but in no cases shall any person be authorized to receive, hold, or disburse any funds of the university without having first given bond, conditioned for the faithful discharge of his duties; and no person shall be excluded from the full benefit of the university fund, or placed at any disadvantage in the pursuit of his studies, who possesses the requisite literary and other qualifications, and is willing to submit to the discipline prescribed for students.

(Aikin's Digest, p. 429, §§ 11, 26; Clay's Digest, p. 583, § 5; p. 585, § 16; Mar. 1, 1876, p. 268, § 7.)

As amend-
ed, Mar.
3, 1908, p.
109, § 8.

1876. (3674, 3675) (1065, 1066) (1302, 1303) **Classification of trustees; term and oath of office.**—The state university shall be under the control of the board of trustees, which shall consist of two members from the congressional district in which the university is located, and one from each of the other congressional districts in the state, the superintendent of education, and the governor, who shall be ex officio president of the board. The members of the board of trustees, as now constituted, shall hold office until their respective terms expire under existing law, and until their successors shall be elected and confirmed, as hereinafter required. Successors to those trustees whose terms expire in nineteen hundred and two shall hold office until nineteen hundred and seven; successors to those whose terms expire in nineteen hundred and four shall hold office until nineteen hundred and eleven; successors to those trustees whose terms expire in nineteen hundred and six shall hold office until nineteen hundred and fifteen; and thereafter their successors shall hold office for a term of twelve years. When the term of any member of such board shall expire, the remaining members of the board shall, by secret ballot, elect his successor, provided, that any trustee so elected shall hold office from the date of his election until his confirmation or rejection by the senate, and, if confirmed, until the expiration of the term for which he was elected, and until his successor is elected. At every meeting of the legislature the superintendent of education shall certify to the senate the names of all who have been so elected since the last session of the legislature, and the senate shall confirm or reject them, as it shall determine is for the best interest of the university. If it reject the names of any member, it shall thereupon elect trustees in the stead of those rejected. In case of a vacancy on said board by death or resignation of a member, or from any cause other than the expiration of his term of office, the board shall elect his successor, who shall hold office until the next session of the legislature. When the name of a successor or successors elected by said board to fill the vacancy or vacancies so occa-

Const.,
264.

University of Alabama.

sioned shall be certified by the superintendent of education to the senate, and the senate shall confirm or reject, as it shall determine is for the best interest of the university; and if confirmed by the senate, the person or persons so elected to fill said vacancy shall hold office for the unexpired term to which he is so elected. If the senate rejects the name of any person to fill said vacancy, it shall thereupon elect some person or persons in the stead of those rejected. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such.

Historical references: (Aikin's Digest, p. 429, § 18; p. 430, § 23; Clay's Digest, p. 584, § 11; p. 587, § 32; Dec. 10, 1892, p. 22; Mar. 1, 1876, p. 268, § 8.) A provision of the qualification of trustees of the university providing that one-third shall be chosen biennially is *functus officio* after the tenure of the trustees first appointed.—*Little v. Foster*, 130 Ala. 154 (30 So. 477).

1877. (3676) (1067) (1304) Quorum of board of trustees; president pro tempore.—Five members of the board of trustees, exclusive of the *ex officio* members, shall constitute a quorum, and every member present shall be required to vote, and a majority of those present shall govern. At their first meeting, the board shall elect one of their number president pro tempore, who shall preside in the absence of the governor, and shall hold the position until the next annual or special meeting, when another president pro tempore shall be elected.

(Aikin's Digest, p. 430, § 26; Clay's Digest, p. 584, § 7; Mar. 1, 1876, p. 268, § 10.)

1878. (3677) (1068) (1303, 1304) Time and place of meetings of trustees.—The board of trustees shall meet at least once in each year, and on the last Wednesday in June, unless some other day is selected by them, and they may, by ordinance or resolution adopted by them, prescribe other regular times for meeting. At such meetings they may continue in session as long as they may deem proper for the welfare of the institution, and may at any session appoint a special or adjourned meeting. Upon the written application of four members, or of any three members with his concurrence, the president pro tempore shall appoint a special meeting, and issue notice thereof to the several members; but such special meeting shall not be appointed for a day less than twenty days subsequent to the date of the notice. In case there is no president pro tempore of the board, or in case he is incapacitated to act, then the governor, as president of the board, shall, upon the written application of four members, in like manner call such special meeting. Regular meetings of the board must be held at the university, but special or adjourned meetings may be held at the university or in the city of Montgomery, or in the city of Birmingham.

As amended, Mar. 3, 1903, p. 109, § 10.

(Aikin's Digest, p. 430, § 25; Clay's Digest, p. 584, § 15; Mar. 1, 1876, p. 268, § 10.)

1879. (3678) (1069) (1305) **Proceedings of board recorded; employment of secretary; payment of expenses, etc.**—The proceedings of the board of trustees must be recorded in a substantially bound book, which must be kept in the archives of the university; and the board may at any meeting employ a secretary. The certificate of the president, or in his absence, of the president pro tempore, countersigned by the secretary, if there be one, shall entitle the several trustees to their constitutional pay out of the treasury of the university; and the compensation of the secretary and the necessary incidental expenses of the board at each session shall be paid on the order of the board, and the certificate of the president, or president pro tempore, as the case may be, out of such treasury.

1880. (3679) (1070) (1306) **Report by board to the legislature.**—It shall be the duty of the board of trustees to make to the legislature, at each session thereof, a full report of their transactions, and of the condition of the university, embracing an itemized account of all receipts and disbursements on account of the university, by those charged with the administration of its finances.

As amended, Mar. 3, 1903, p. 109, § 13.

1881. (3681) (1072) (1309) (430) (384) **Interest on "University fund"; how payable.**—The state treasurer must quarterly, on the last day of December, March, June, and September of each year, pay the "university fund," as defined by section 1872 (3670) of this Code, to the treasurer or any authorized agent of the university; and on the application of such treasurer or agent, the state auditor shall draw his warrant on the state treasurer for the amount due; such payments to commence on the days specified after the present constitution became operative.

1882. (3682) (1073) (1308) **Right reserved to the legislature to revise and amend.**—The right is reserved to the legislature to revise or amend the provisions of this article, and in virtue of the character of the trust conferred by the act of congress, to intervene, and, by special enactment, to direct and control the board of trustees in the discharge of their duties and functions.

1883. (3683) **Law department to receive second-hand text-books from state library.**—The justices of the supreme court are authorized from time to time to set apart and turn over to the law department of the university, copies of such second-hand or superseded law books, known as text-books, as they may deem expedient, the marshal and librarian taking proper receipts therefor.

ib., § 16.

1884. (3684) **Law department must be supplied with Codes.**—The secretary of state shall supply to such law department

University of Alabama.

ten copies of the Code of Alabama and ten copies of the acts of the legislature, and ten copies of each volume of the current reports of the supreme court, as the same may, from time to time, be published.

1885. (3685) Police of grounds; appointment, powers, and duties.—The president of the university has authority to appoint or employ one or more suitable persons to act as police officers to keep off intruders and prevent trespasses upon and damage to the property of the university. Such persons shall be charged with all the duties and invested with all the powers of police officers, and may eject trespassers from the university buildings and grounds, and may, without warrant, arrest persons guilty of disorderly conduct, or of trespass on the property of the institution, and carry them before the nearest justice of the peace or other officer charged with the trial of such offenders, before whom, upon proper affidavit charging the offense, such person so arrested may be tried and convicted as in case of persons brought before him on a warrant; and such officer or officers shall have authority to summon a posse comitatus.

1886. Lands, sale, lease, or other disposition provided for.—Feb 28, 1907, p. 183, § 1. The board of trustees of the University of Alabama may sell, lease, or otherwise dispose of, all or any part of such land as has been or may be selected under and by virtue of an act of congress entitled, "An act to increase the endowment of the University of Alabama from the public lands in said state," approved April 23, 1884; and may sell said lands or any interest therein or part thereof for such prices and upon such terms as to them may seem proper. Such sales may be for cash or for part cash, and the said board of trustees of the University of Alabama shall not be limited by any statute heretofore enacted as to what part of the purchase price of such lands which they have heretofore sold or may hereafter sell shall be in cash, but the per cent of the purchase price of such lands that may have been or shall be in cash, shall be such as said board of trustees of the University of Alabama may agree upon with the purchaser or purchasers.

1887. Executive committee created and authorized to act.—1b., § 2. The board of trustees of the University of Alabama may create an executive committee consisting of three or more of the trustees composing the said board, upon which committee it may confer full power and authority to lease, sell, and convey such lands or any part thereof, or any interest therein, as fully as said board of trustees of the University of Alabama could itself do.

University of Alabama.

Feb. 28,
1907, p.
183, § 3

1888. Sales, leases, etc., ratified and confirmed.—All sales, agreements to sell, leases, and other dispositions of such lands, or any part thereof, or any interest therein, heretofore made or attempted to be made by the board of trustees of the University of Alabama, or by any executive committee by it created, irrespective of the per cent of the purchase price which may have been paid in cash, are ratified and confirmed, and shall be binding upon the board of trustees as fully as if the same were made after the 28th day of February, 1907, and in cases where the same were made by an executive committee, as if the same were made by the board of trustees of the University of Alabama.

Mar. 6,
1907, p.
300, § 1
and 2.

1889. Medical department of University of Alabama.—The corporation styled the Medical College of Alabama is dissolved, and the institution heretofore known as the Medical College of Alabama is constituted the Medical Department of the University of Alabama, and shall hereafter be under the sole management, ownership, and control of the board of trustees of the University of Alabama; but the said Medical Department shall remain at Mobile for all time. All appropriations of moneys which may hereafter be made in aid of the medical college shall enure to the benefit of the said Medical Department of the University of Alabama, and shall be paid to the trustees of the University of Alabama for the use and benefit of said Medical Department at Mobile, Alabama.

Mar. 6,
1907, p.
367, § 2.

1890. Quadrennial appropriations.—For the quadrennial period beginning on the first day of January, 1907, the sum of one hundred thousand dollars is appropriated annually for the purpose of making needed improvements in the material equipment of said university, including the erection and furnishing of new buildings and the necessary repairs and furnishings for the buildings now in existence.

Ib., § 3

1891. Payment of appropriations in quarterly installments; exception.—The moneys appropriated by the preceding section shall be paid by the state treasurer in equal quarterly installments on the first day of January, April, July, and October to the treasurer of the University of Alabama upon warrants which shall be drawn by the state auditor as warrants are drawn for other appropriations to the University, but the appropriation of one hundred thousand dollars made in the preceding section shall not be available, and the state auditor shall not draw his warrant for any part of said sum, except upon the requisition of the board of trustees of the University of Alabama, or the president thereof, approved by the governor.

Cement Laboratory—Summer School.

1892. Report must show manner and purpose for which funds expended.—The board of trustees of the University of Alabama shall embody in the report required by law to be made to the legislature a statement showing the manner in which, and for what purpose, the funds provided in this article have been expended. Mar. 6,
1907, p.
307, § 4.

ARTICLE 22.

CEMENT LABORATORY. 1893.

1893. Testing laboratory for cements.—The testing laboratory of the University of Alabama is the official testing laboratory for cements and other materials of construction. Oct. 6,
1903, p.
389, § 1.

ARTICLE 23.

SUMMER SCHOOL. 1894-1898.

SECTION.

- 1894.** Summer school at university established.
1895. Annual appropriation.
1896. Appropriation; how and when paid.

SECTION.

- 1897.** Matriculation or tuition fee.
1898. Examinations conducted by state board of examiners annually.

1894. Summer school at university established.—The trustees of the University of Alabama may establish at that institution a school to be known as the summer school for teachers, at which during the summer months instruction shall be given in all the public school studies, and in such other studies as may be necessary to better prepare teachers for efficient service in the public schools of this state. Oct. 1,
1908, p.
307, § 1.

1895. Annual appropriation.—For the maintenance of the summer school for teachers, the sum of five thousand dollars is appropriated annually. Ib., § 2.
(r.c.c.)

1896. Appropriation; how and when paid.—The sum of five thousand dollars shall, on the first day of July of each year, be paid by the state treasurer to the treasurer of the University of Alabama, on warrants drawn by the state auditor as warrants are drawn for other appropriations to the university. The trustees of the university shall report in writing to the legislature at each regular session thereof the manner in which the appropriation has been expended. Ib., §§ 3
and 4.
(r.c.c.)

1897. Matriculation or tuition fee.—No matriculation or tuition fee shall be charged to Alabama teachers, and no incidental fee exceeding three dollars per session shall be charged any Alabama teacher. Ib., § 4.

Alabama Polytechnic Institute.

Oct. 1,
1908, p.
307, § 5.

1898. Examinations conducted by state board of examiners annually.—The state board of examiners for teachers shall conduct or have conducted, annually, at the university, at the close of the summer school for teachers, an examination for the convenience of teachers attending that school. The examination shall be equal in all respects to the regular examination required by law. The same fees shall be charged, and the examination shall be conducted under the same rules and regulations.

ARTICLE 24.

ALABAMA POLYTECHNIC INSTITUTE. 1899-1911.

SECTION.

- 1899. Incorporation of the Alabama Polytechnic Institute.
- 1900. General powers, duties, and liabilities of institute.
- 1901. Credit of state pledged to payment of interest.
- 1902. Powers of board of trustees.
- 1903. Classification of trustees.
- 1904. Vacancy in office of trustee; how filled; term of appointee.
- 1905. Time and place of meetings of trustees.

SECTION.

- 1906. Quorum of board of trustees.
- 1907. Payment of expenses to trustees.
- 1908. When gift or grant not affected; what will not operate a forfeiture.
- 1909. Report of trustees to legislature.
- 1910. Interest paid by treasurer; when bond required of officers or agents.
- 1911. Appropriation in lieu of fertilizer tag tax; how paid.

As amended,
Jan. 27, 1899,
p. 22, § 1.

1899. (3686) (1074) Incorporation of the Alabama Polytechnic Institute.—The governor and the superintendent of education, by virtue of their respective offices, and the trustees appointed from the different congressional districts of the state, under the provisions of section 266 of the constitution of 1901, and their successors in office, are constituted a body corporate under the name of "The Alabama Polytechnic Institute," to carry into effect the purpose and intent of the congress of the United States in the grant of lands by the act of July 2, 1862.

(This article based upon act of Feb. 10, 1879, p. 194.)

1900. (3687) (1075) General powers, duties, and liabilities of institute.—Such corporation shall have all the rights, privileges, and franchises necessary to a promotion of the end of its creation, and shall be charged with all corresponding duties, liabilities, and responsibilities.

1901. (3688) (1076) Credit of state pledged to payment of interest.—For the payment of the interest, at the rate of eight per cent per annum, on the fund of two hundred and fifty-three thousand and five hundred dollars, arising from the sale of the script for the land donated in trust to this state by the

Alabama Polytechnic Institute.

act of congress of July 2, 1862, the faith and credit of the state are forever pledged.

1902. (3689) (1077) Powers of board of trustees.—The board of trustees have the power to organize the institute by appointing a corps of instructors, who shall be styled the faculty of the institute, and such other instructors and officers as the interest of the institute may require; and to remove any such instructors or other officers, and to fix their salaries or compensation, and increase or reduce the same at their discretion; to regulate, alter, or modify the government of the institute as they may deem advisable; to prescribe courses of instruction, rates of tuition, and fees; to confer such academic and honorary degrees as are usually conferred by institutions of similar character; and to do whatever else they may deem best for promoting the interest of the institute. They shall also establish and maintain a military department in the institute, and elect a commandant and such other officers as may be necessary for the department.

1903. (3690) (1078) Classification of trustees.—The trustees of the institute are divided into three classes, as follows: The trustees from the fourth, fifth, seventh, and ninth districts shall constitute the first class; those from the eighth, sixth, and second districts shall constitute the second class; and those from the third and first districts shall constitute the third class; and they shall hold office, and their seats be vacated as prescribed by section 266 of the constitution.

1904. (3691) (1079) Vacancy in office of trustee; how filled; term of appointee.—Any vacancy in the office of trustee, occurring during the recess of the legislature, shall be filled by appointment of the governor, such appointee to hold until the next session of the legislature thereafter; such vacancy shall be filled by the governor, by and with the consent of the senate; and any trustee appointed to fill a vacancy by the governor, by and with the consent of the senate, shall hold during the unexpired term.

1905. (3692) (1080) Time and place of meetings of trustees.—The board of trustees shall hold their meetings at the institute on the last Monday in June of each year, unless the board shall, in regular session, determine to hold its meetings at some other time or place; and upon the application in writing of any four members of the board, the governor shall appoint a special meeting, naming the time and place thereof, and cause notices thereof to be issued to the several members of the board, but such meeting shall not be appointed for a day less than twenty days subsequent to the date of the notice.

1906. (3693) (1081) Quorum of board of trustees.—Six members of the board of trustees shall constitute a quorum, but a smaller number may adjourn from day to day until a quorum is present.

1907. (3694) (1082) Payment of expenses to trustees.—The certificate of the president of the board, or, in his absence, of the president pro tempore, countersigned by the secretary, shall entitle the several trustees to the payment of their actual expenses incurred in the discharge of their duties as such trustees.

1908. (3695) (1083) When gift or grant not affected; what will not operate a forfeiture.—No grant or gift, by will or otherwise, shall fail on account of any misnomer or informality, when the intent of the grantor or donor can be arrived at; nor shall any default, malfeasance, or misfeasance, or non-user, on the part of the trustees, or other officers or agents of such corporation, work a forfeiture of any of its rights, privileges, powers, or franchises.

1909. (3696) (1084) Report of trustees to legislature.—It shall be the duty of the board of trustees to make, or cause to be made to the legislature, at each session thereof, a full report of their transactions, and of the condition of the institute, embracing an itemized account of all receipts and disbursements on account of the institute by those charged with the administration of its finances.

1910. (3697) (1085) Interest paid by treasurer; when bond required of officers or agents.—The state treasurer must pay the interest on the fund of two hundred and fifty-three thousand and five hundred dollars arising from the sale of land script quarterly, as the same may accrue, to the treasurer or other authorized agent or officer of the institute; and on the application of the treasurer, agent, or officer, the state auditor shall draw his warrant on the state treasurer for such interest; but in no case shall any person be authorized to receive, hold, or disburse any fund of the institute, without first having given bond conditioned for the faithful performance of his duties.

Mar. 4,
1907, p.
283, § § 1
and 2.

1911. Appropriation in lieu of fertilizer tag tax; how paid.—In lieu of the share of the proceeds arising from the sale of fertilizer tags heretofore paid to the Alabama Polytechnic Institute, the sum of thirty-two thousand dollars for one year 1907-1908, thirty-six thousand dollars for the year 1908-1909, thirty-eight thousand dollars for the year 1909-1910, and thereafter forty thousand dollars annually is appropriated to said institute, and the funds thus appropriated shall be paid

Alabama Industrial School for Girls.

out of any funds in the treasury of the state not otherwise appropriated, which appropriation shall be paid on the requisition of the president and treasurer of said institute, upon the approval of the governor.

ARTICLE 25.

ALABAMA INDUSTRIAL SCHOOL FOR GIRLS. 1912-1932.

SECTION.

1912. Corporate name; rights and powers of.
 1913. Trustees; term of office; vacancy; how filled.
 1914. Purposes for which school established.
 1915. Powers to confer honorary degrees, diplomas, certificates, etc.
 1916. President; election and qualifications of.
 1917. Departments; professors and directors; how chosen.
 1918. Secretary to trustees.
 1919. Treasurer; election, duties, and bond of.
 1920. Removal of treasurer.
 1921. Books of institution kept; must be open to inspection.

SECTION.

1922. Pupils admitted; qualifications of.
 1923. Property exempt from taxation.
 1924. Scholarships.
 1925. Duties of students.
 1926. Rights confirmed, etc.
 1927. Instruction free.
 1928. Power to condemn property.
 1929. Appropriation for girls' industrial school.
 1930. Title to and sale of lands of industrial school for girls.
 1931. Deposit of proceeds of sales, leases, etc., of school lands; payment of expenses of selling, etc.
 1932. Interest on land fund paid quarterly.

1912. **Corporate name; rights and powers of.**—“The Alabama Girls' Industrial School,” heretofore established at Montevallo, is a body corporate under the corporate name of “Alabama Girls' Industrial School,” and by that name may sue and contract, take and hold real and personal property, and have all the powers of a corporation established to carry on a state educational institution of the highest grade and rank.

Mar. 4,
1901, p.
182, § 1.

1913. **Trustees; term of office; vacancy; how filled.**—The corporation and school shall be governed by a board of trustees composed of the governor, the superintendent of education, one trustee from every congressional district, and two trustees from the state at large. The trustees from the odd numbered districts shall hold office till the first Monday after the second Tuesday in January, 1911, and till their successors are appointed and qualified, who shall hold office for a term of eight years, and till their successors are appointed and qualified.

Ib., § 2.

The trustees from the even numbered districts and from the state at large shall hold office till the first Monday after the second Tuesday in January, 1915, and till their successors

Aug. 6,
1907, p.
579, § 2.

Alabama Industrial School for Girls.

(c.c.c.) are appointed and qualified, who shall hold office for a term of eight years, and till their successors are appointed and qualified, and thereafter the term of office of every trustee shall be eight years.

Whenever a vacancy occurs in the office of trustee, the governor shall appoint a successor, who shall hold office till the next meeting of the legislature, when the governor, by and with the advice and consent of the senate, shall appoint a trustee, who shall hold office for the unexpired term.

Upon the expiration of the term of office of any trustee the governor shall, by and with the advice and consent of the senate, appoint a successor.

A trustee shall be ineligible to be elected to any office by the board of trustees.

MAR. 4,
1901, p.
182, § 8.

1914. Purposes for which school established.—The school is established for the purpose of giving therein instruction in the liberal arts and sciences, and the following academic departments are established, for every one of which a professor shall be selected as hereinafter provided, namely:

(r.c.c.)

1, English—literature and expression; 2, mathematics; 3, history and political economy; 4, psychology and education; 5, ancient languages; 6, modern languages; 7, chemistry and geology; 8, physics and astronomy; 9, biology—botany, floriculture, and horticulture.

And the following industrial departments are established, for every one of which a director shall be selected as hereinafter provided:

1, Art—drawing, painting, and designing; 2, vocal music; 3, instrumental music; 4, commercial—bookkeeping, stenography, typewriting, telegraphy; 5, domestic art—sewing, millinery, dress-making; 6, domestic economy—cooking, chemistry of foods; 7, dairying; 8, physical culture; 9, manual training.

And the trustees shall, from time to time, establish and maintain departments wherein every other branch of human knowledge or industry by which women may live shall be taught.

The trustees may leave vacant the office of professor or director in any department, as the best interests of the school may require, and cause instruction to be given therein by some competent instructor selected as the professors and directors are selected.

The president, professors, and directors shall constitute the faculty of the school.

1b., § 4.

1915. Powers to confer honorary degrees, diplomas, certificates, etc.—The trustees of the school, by and with the advice

Alabama Industrial School for Girls.

and consent of the president and faculty, may confer regular and honorary degrees upon such persons as they deem worthy thereof, and may grant and confer degrees, diplomas, or certificates of proficiency or distinction upon such students as may be entitled thereto under the laws established by the trustees governing this subject.

1916. President; election and qualifications of.—The trustees shall elect a president for a term to be fixed by them, who shall not be removed during the term for which he is elected, except for just cause, which shall be explicitly set forth in writing in the minutes of the proceedings of the trustees and approved by a majority of all the trustees. No person shall be eligible to the office of president unless he is a graduate of some college or university of well-known high standing, an educator by profession, of good moral character, and possessing good business and administrative qualifications, and if a man, must be a married man. The trustees shall fix the salary of the president before electing a person to the office, and shall not decrease the amount thereof during the term of office without the consent of the president. Mar. 4,
1901, p.
182, § 5.

1917. Departments; professors and directors; how chosen. 1b., § 6
(r.c.c.)—The trustees shall establish such additional departments, academic and industrial, in the school as they deem necessary and proper, and fix the salary or compensation to be paid to the professors, directors, and instructors therein. The president of the school shall, by and with the advice and consent of the board of trustees, appoint all of the professors, directors, and instructors of all of the departments in the school. Whenever a nomination is rejected by the trustees the president, if he so desires, shall have reasonable time within which to make another nomination, but he shall not have the power to nominate any person rejected within one year thereafter. Should the president fail or refuse to nominate any one to be a professor, director, or instructor, the trustees shall elect such professors, directors, and instructors as they deem necessary or proper.

1918. Secretary to trustees.—The trustees shall elect a secretary, who shall hold office for the term and receive such compensation as may be fixed by the trustees, and shall perform such services as may be required of him. 1b., § 7.

1919. Treasurer; election, duties, and bond of.—The trustees shall elect a treasurer, who shall not be a trustee, who shall receive, hold, and pay out all moneys belonging to the school, or that may be paid in for the necessary expenses of any student in the school, or for her use and benefit, and the treasurer shall hold office for the term and receive such com- 1b., § 8.

Alabama Industrial School for Girls.

pensation as may be fixed by the trustees. Before entering upon his duties the treasurer must give bond in such penalty as the trustees may fix, payable to "The Alabama Girls' Industrial School," with conditions that he will faithfully receive, safely keep, and lawfully pay out, and promptly, fully, and fairly account for all moneys or choses in action which may come to him by virtue of his office, and the trustees may require a new bond, or an additional bond, whenever they judge that the interest of the school requires it.

Mar. 4,
1901, p.
132, § 8.

1920. Removal of treasurer.—Whenever the funds in the hands of the treasurer, or about to be received by him, are in danger of being lost, the trustees may remove the treasurer from office and take from him all funds and choses in action belonging to the school or any pupil therein, and may, in that event, appoint a temporary custodian with bond or security to hold such funds.

Ib., § 9.

1921. Books of institution kept; must be open to inspection.—The secretary, treasurer, and all other officers, agents, or servants of the school who are required to keep, use, or dispose of any property or supplies of the school, shall keep accounts of their transactions in books to be furnished them by the trustees, which shall at all times be open to the inspection and examination of the president, the trustees, or any one appointed by the trustees thereto, and any person withholding such book or books belonging to the school from the inspection of any officer entitled to examine the same, shall be immediately removed from his office or employment by the president or trustees.

Ib., § 10.

1922. Pupils admitted; qualifications of.—Any white girl residing in Alabama, of good moral character, in good health, and of sufficient physical and mental development, to be judged of by the president, and over the age of fifteen years, who shall comply with all the requirements prescribed by the trustees, may be admitted into the school, and upon completing the course of study prescribed at the time of her admission, to the satisfaction of the faculty, shall receive the degree and diploma or certificate she may have earned. Whenever the accommodations of the school are sufficient to admit more students than apply from Alabama, then students from other states, territories, or foreign countries may be received and instructed in the school upon such terms and conditions as may be imposed by the trustees.

Ib., § 11.

1923. Property exempt from taxation.—The property of the school, of every kind and description, shall forever be exempt from all taxes, municipal, county, or state, and from all local assessments. The president, and all other teachers and offi-

Alabama Industrial School for Girls.

cers, who may be men, are exempt from jury duty and from working public roads or streets; and the salary, wages, or compensation of all officers, teachers, and servants of the school shall be exempt from the process of garnishment or attachment.

1924. Scholarships.—Every trustee of the school shall have the right to appoint one student possessing the qualifications hereinbefore prescribed, who shall be boarded and instructed in the school free of all charges for board, washing, lights, books, and incidental fees, but a student shall not be eligible to appointment for more than four years, nor shall any girl be appointed under this provision who is able to pay for her education, or whose parents, or either of them, have the ability to pay for her education in the school.

Mar. 4,
1901,
p. 188,
§ 12; as
amended
Aug. 6,
1907, p.
579, § 1.

1925. Duties of students.—As far as may be practicable students in the school shall be employed in giving assistance in any department of work of the school to enable them to obtain instruction therein, but students shall be employed only in cases and to the extent that they may be able to render efficient service without injury to themselves or to the school.

Ib., § 13.

1926. Rights confirmed, etc.—All rights of property in action which may have accrued to the school before the adoption of this Code are confirmed and preserved, and no grant or gift of any valuable thing or right shall fail by reason of a mistake in the name of this corporation or school; provided the intention to grant or give to this school may be derived from the words used in designating the beneficiary or grantee. All rights, powers, and remedies granted in and by an act to create and establish an industrial school in the State of Alabama for white girls, approved February 21, 1893, and any act amendatory thereof, are confirmed and preserved.

Ib., § 14.

1927. Instruction free.—Instruction in the school shall be given without charge to all pupils admitted who are residents of this state.

Ib., § 15.

1928. Power to condemn property.—Whenever the school needs any land near the school for any purpose of the school, and the owner thereof is a minor or an insane person, or refuses to sell the land to the state for the use of the school, the trustees shall have authority to institute in the probate court of Shelby county proceedings in the name of the State of Alabama, to condemn such land, which proceedings shall be conducted as near as may be possible in accordance with the provisions of sections 3860-3903 (1712-1742) of the Code. It shall be the duty of the trustees to pay out of the funds of the school all costs of every condemnation proceeding instituted by them under the power hereby conferred.

Aug. 6,
1907, p.
579, § 2.

Alabama Industrial School for Girls.

Mar. 4,
1907, p.
186, § 1.

1929. Appropriation for girls' industrial school.—For the regular maintenance of the Alabama Girls' Industrial School there is appropriated, annually, thirty-six thousand dollars, to be paid in quarterly installments of nine thousand dollars to the treasurer of the school upon the order of the president of the school.

Industrial school at Montevallo is a branch school and a part of the state.—*Ala. Industrial School v. Reynolds*, 143 Ala. 579 (42 So. 114).

Dec. 10,
1900, p. 56,
§ 2.

1930. Title to and sale of lands of industrial school for girls.—The title to all lands granted by the congress of the United States to the State of Alabama, "for use of" said industrial school, is retained until the trustees of the school shall sell the same, which sale shall be made only with the approval of the governor, and when any sale shall have been made, the governor, upon the request of the trustees, shall convey the lands sold to the purchaser, and all the proceeds arising from the sale of lands shall be paid into the treasury of the state to remain forever as a fund for the use of the school, and upon which there shall be paid to the school interest at the rate of six per cent per annum, in quarterly installments.

Feb. 28,
1907, p.
172, § 2.

1931. Deposit of proceeds of sales, leases, etc., of school lands; payment of expenses of selling, etc.—The proceeds of all lands sold or leased by the Alabama Girls' Industrial School shall be paid into the state treasury, and the school, out of the money appropriated by the state for the maintenance of the school, shall pay all the expenses of caring for, protecting, and selling the lands.

(w.c.c.)

1932. Interest on land fund paid quarterly.—On the last day of every quarter the state treasurer shall pay to the treasurer of the Alabama Girls' Industrial School, upon the order of the president of the school, interest at the rate of six per cent per annum on the whole amount of the fund in the state treasury at the close of every quarter, arising from the sale of lands, and upon every sum paid into the state treasury before the current quarter upon which interest has never been paid; and all laws or parts of laws in conflict herewith are hereby expressly repealed. It being the purpose and intent of the State of Alabama to execute in good faith the trust reposed in it by congress when granting the lands to the state for the benefit of the school, and to preserve the proceeds arising from the lease or sales of the lands of the school so granted by congress as a fund forever, and to pay the interest thereon for the support and maintenance of the school.

Alabama Institute for the Deaf.

ARTICLE 26.

ALABAMA INSTITUTE FOR THE DEAF. 1933-1942.

SECTION.

1933. Educational institution for the deaf established.
1934. Incorporation of such institution.
1935. Eleven trustees appointed by the governor; board of trustees.
1936. Quorum and meetings of board; secretary and treasurer.
1937. Duties of treasurer.

SECTION.

1938. President of board; teachers; compensation of officers.
1939. Object of the school; application and admission; term of pupilage.
1940. Selection and powers of executive committee.
1941. Appropriations for each pupil.
1942. Property to be insured and kept in repair; appropriation therefor.

1933. (3698) (1086) (1311) (1025) **Educational institution for the deaf established.**—There is established in this state and located at Talladega, an institution for the education of the deaf, called the Alabama School for the Deaf. As amended, Nov. 28, 1900, p. 28, § 1.

This article based upon acts of Feb. 28, 1887, p. 70; Feb. 11, 1870, p. 95, § 1; Jan. 27, 1860, p. 344, § 1.)

1934. (3699) (1087) (1312) (1026) **Incorporation of such institution.**—The governor, the superintendent of education, and eleven other persons, appointed as hereinafter provided, are made a body corporate, with the rights of succession forever, by the name of the Alabama School for the Deaf; and such corporation may acquire and hold property, real and personal, by gift, devise, or any other manner, for the purpose of its creation; may sue and contract; may have and use a common seal; break or alter the same at pleasure, and may have all the powers necessary and proper to accomplish the purposes of this article. Ib., § 2.

1935. (3700) (1088) (1313) (1027) **Eleven trustees appointed by the governor; board of trustees.**—Such board of trustees shall consist of the governor, the superintendent of education, and eleven other persons, who shall be appointed by the governor and confirmed by the senate at the meeting of the legislature next following such appointment, and if any appointment by the governor is rejected by the senate, the governor must again appoint until the full number of appointments at such time is complete; and in case of a vacancy on said board by death or resignation of a member, or from any cause other than the expiration of his term of office, the governor may fill the vacancy by appointment, which shall be good until the next meeting of the legislature, and until his successor is duly appointed and confirmed. Each trustee shall hold office for a term of six years. The board As amended, Aug. 9, 1907, p. 911, § 1.

Alabama Institute for the Deaf.

shall consist of three members from the congressional district in which the school is located, and one from each of the other congressional districts in the state. The three members from the district in which the school is located shall be appointed from Talladega county. The board shall be divided into three classes. The members from the first, second, third, and one member from the fourth district, shall compose the first class. The members from the fifth, sixth, and one member from the fourth district, shall compose the second class. The members from the seventh, eighth, ninth, and one member from the fourth district, shall compose the third class. Successors to those trustees whose terms expire in 1908 shall hold office until 1914; successors to those trustees whose terms expire in 1910 shall hold office until 1916; successors to those trustees whose terms expire in 1912 shall hold office until 1918; and thereafter their successors shall hold office for a term of six years; and the members of the board of trustees, as now constituted and elected, shall hold office until their respective terms expire under existing law, and until their successors are appointed and confirmed as herein required. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such. These eleven persons, and the governor and the superintendent of education, constitute a board of trustees who shall have entire management and control of such institution.

1936. (3701) (1089) (1314) (1028) Quorum and meetings of board; secretary and treasurer.—A majority of such board may act, and may meet and adjourn from time to time as, in their judgment, the interest of the institution may require. They must appoint a secretary and keep a complete record of all their proceedings in a well-bound book; and they shall also appoint a treasurer, who shall not be a trustee, who shall give bond in such amount as the board may determine, and with such sureties as they may deem sufficient, for the faithful discharge of his duties as such treasurer; and he and his sureties shall be responsible for all funds which may come into his hands by virtue of his office.

As amended, Nov. 28, 1900, p. 23, § 4. (r.o.c.)

1937. (3702) (1090) (1315) (1029) Duties of treasurer.—The treasurer must pay over such funds as may come into his hands as such on the written order of the principal of the school, countersigned by the secretary, and recorded in the minutes or records of the proceedings of the board, kept by such secretary, and the treasurer shall make a full report at the close of the fiscal year, and oftener, if required by the governor.

Alabama Institute for the Deaf.

1938. (3703) (1091) (1316) (1030) **President of board; teachers; compensation of officers.**—The board must appoint from their number a president, and they must also appoint a principal teacher for such institution, who may nominate to the board such other assistants in the institution as he may think necessary for its successful management, such board having power of confirmation or rejection. The board must fix the amount of compensation for each of the officers and teachers, and the time of payment.

1939. (3704) (1094) (1319) (1032) **Object of the school; application and admission; term of pupilage.**—The object of such school shall be to afford the means of education to the deaf of the state. All deaf children of the state between the ages of seven and twenty-one, who are of sound mind, free from disease, and of good character, may be admitted to the benefits of this school. All applicants must make satisfactory proof to the board of trustees that they are citizens of the state, and that they are proper candidates for admission. Proof may be made by the applicant in person, or by next friend, or by affidavit of any person cognizant of the facts, before the probate judge or notary public. The length of time which any pupil may continue in school shall not exceed ten years. Provided, however, that the board of trustees may increase the term of a pupil from year to year upon recommendation of the principal, to not exceeding four additional years, and no pupil shall be retained in school after having passed the age of twenty-five. No pupil shall be retained in school after it has been ascertained that such pupil has ceased to make progress or is not being benefited. Any pupil may be dropped at any time for cause by the board of trustees.

As amend-
ed, Feb.
12, 1906,
p. 47, § 5.

1940. (3708) (1098) (1323) **Selection and powers of executive committee.**—The board may select from their number an executive committee of three, subject to change and removal by the majority of the board at any time; and such committee is authorized to meet and transact any business that may be transacted by a majority of the board; and whatever acts such committee may do shall be considered as done by the whole board.

1941. (3710) **Appropriations for each pupil.**—For the maintenance and the support of the Alabama School for the Deaf the sum of two hundred and thirty-five dollars per pupil is hereby annually appropriated out of any money in the treasury not otherwise appropriated, such an appropriation to be based upon the number of pupils enrolled on the first day of January in each year, and to be drawn quarterly in

As amend-
ed, Nov.
28, 1900,
p. 23, § 6.

Alabama Academy for the Blind.

advance by the treasurer of the board, and disbursed as directed by them.

(Feb. 28, 1887, p. 70, § 2.)

1942. (3711) Property to be insured and kept in repair; appropriation therefor.—The board of trustees must provide good and sufficient insurance, payable to the State of Alabama, upon the property of the state and under their control, and keep and maintain such property in good repair; and for these purposes there is annually appropriated the sum of one thousand dollars, to be drawn as appropriations for the support of the institute are drawn. Such appropriation shall be expended only for the purposes herein specified.

(Dec. 10, 1888, p. 16.)

ARTICLE 27.

ALABAMA ACADEMY FOR THE BLIND. 1943-1948.

SECTION.

1943. Educational institution for the blind established.

1944. Control and management.

1945. Object of school; application and admission; term of pupilage.

SECTION.

1946. Appropriations for each pupil.

1947. Officers and teachers.

1948. Laws relating to the Alabama school for the deaf applicable.

As amended, Nov. 28, 1900, p. 23, § 7.

1943. (3712) Educational institution for the blind established.—There is established in this state and located at Talladega, an institution for the education of the blind, called the Alabama School for the Blind.

(This article based upon act of Feb. 19, 1887, p. 56, and Feb. 7, 1891, p. 458).

Ib., § 8.

1944. (3713) Control and management.—Such institution is under the control and management of the board of trustees of the Alabama School for the Deaf, who may prescribe rules and regulations for the conduct of the same. The principal for the Alabama School for the Deaf is the chief executive officer.

As amended, Feb. 12, 1908, p. 47, § 9.

1945. (3714) Object of school; application and admission; term of pupilage.—The object of such school shall be to afford means of education to the blind of the state. All blind children of the state between the ages of seven and twenty-one who are of sound mind, free from disease, and of good moral character may be admitted to the benefits of this school. All applicants must make satisfactory proof to the board of trustees that they are citizens of the state, and that they are proper candidates for admission. Proof may be made by the applicant in person, or by next friend, or by affidavit of any

Alabama School for Negro Deaf Mutes and Blind.

person cognizant of the facts, before a probate judge or notary public. The length of time which any pupil may continue in school shall not exceed ten years; provided the board of trustees may increase the term of any pupil from year to year, upon the recommendation of the principal, to not exceeding four additional years. And no pupil shall be retained in school after having passed the age of twenty-five. No pupil shall be retained in school after it has been ascertained that such pupil has ceased to make progress or is not being benefited. Any pupil may be dropped at any time for cause by the board of trustees.

1946. (3716) Appropriations for each pupil.—For the maintenance and support of the Alabama School for the Blind the sum of two hundred and thirty dollars per pupil is hereby annually appropriated, such appropriation to be based upon the number of pupils enrolled on the first day of January of each year, and to be drawn quarterly in advance by the treasurer of the board, and disbursed as directed by them. Amended, Nov. 28, 1900, p. 23, § 10.

1947. (3717) Officers and teachers.—All officers and teachers of such institution must be appointed, and the salaries fixed and paid in like manner as the officers and teachers of the Alabama School for the Deaf are appointed and their salaries fixed and paid. Ib., § 11.

1948. (3719) Laws relating to the Alabama School for the Deaf applicable.—All laws now in force or hereafter enacted relating to the admission of pupils and the management and control of the Alabama School for the Deaf, are applicable to the Alabama School for the Blind, except so far as such laws may be inconsistent with the provisions of this article. Ib., § 12.

ARTICLE 28.

ALABAMA SCHOOL FOR NEGRO DEAF MUTES AND BLIND. 1949-1953.

SECTION.

1949. Educational institutions for negro deaf and blind established.

1950. Control and management.

1951. Object of school; application and admission; term of pupilage.

SECTION.

1952. Appropriations for each pupil.

1953. Laws relating to the Alabama school for the deaf applicable.

1949. (3720) Educational institutions for negro deaf and blind established.—There is established in this state and located at Talladega, an institution for the education of negro deaf and blind, called the Alabama School for Negro Deaf and Blind. As amended, Nov. 23, 1900, p. 23, § 13.

Alabama School for Negro Deaf Mutes and Blind.

1950. (3721) Control and management.—Such institution is under the control and management of the board of trustees of the Alabama School for the Deaf, who may prescribe rules and regulations for the conduct of the same. The principal of the Alabama School for the Deaf is the chief executive officer.

1951. (3723) Object of school; application and admission; term of pupilage.—The object of such school shall be to afford the means of education to the negro deaf and blind of the state. All negro deaf and blind children between the ages of seven and twenty-one who are of sound mind, free from disease, and of good character, may be admitted to the benefits of the school. All applicants must make satisfactory proof to the board of trustees that they are citizens of the state, and that they are proper candidates for admission. Proof may be made by the applicant in person, or by next friend, or by affidavit of any person cognizant of the facts, before a probate judge or notary public. The length of time which any pupil may continue in school shall not exceed ten years; provided, the board of trustees may increase the term of a pupil from year to year, upon the recommendation of the principal, to not exceeding four additional years. No pupil shall be retained in school after having passed the age of twenty-five. No pupil shall be retained in school after it has been ascertained that such pupil has ceased to make progress, or is not being benefited. Any pupil may be dropped at any time for cause by the board of trustees.

1952. (3725) Appropriations for each pupil.—For the maintenance and support of the Alabama School for Negro Deaf and Blind the sum of two hundred and thirty dollars per pupil is hereby annually appropriated, such an appropriation to be based upon the number of pupils enrolled on the first day of January in each year, and to be drawn quarterly in advance by the treasurer of the board, and disbursed as directed by them.

1953. (3726) Laws relating to the Alabama School for the Deaf applicable.—All laws now in force or hereafter enacted relating to the admission of pupils and the management and control of the Alabama School for the Deaf, are applicable to the Alabama School for Negro Deaf and Blind, except so far as such laws may be inconsistent with the provisions of this article.

ARTICLE 29.

REFORMATORY AND INDUSTRIAL SCHOOL. 1954-1970.

SECTION.

- 1954. Corporate name; rights and powers.
- 1955. Directors nominated by governor; terms of office.
- 1956. Officers, agents, and employes.
- 1957. By-laws.
- 1958. Meetings of board.
- 1959. White children between ages of six and eighteen provided for.
- 1960. Commitment of children to reformatory.
- 1961. Appeals from decision committing child.
- 1962. Time children shall be kept in reformatory.

SECTION.

- 1963. Reports to legislature.
- 1964. Criminal children sentenced to school.
- 1965. May receive children without authority of court.
- 1966. Exclusive custody of children who are committed.
- 1967. Instructions given children committed.
- 1968. Treasurer of school; bond of.
- 1969. Detention and keeping of children; authority for.
- 1970. Convict children separated from others.

1954. Corporate name; rights and powers.—There is established a reformatory and industrial school, under the name and style of the "Alabama Industrial School," which is a body corporate, and, as such, shall have perpetual succession, may sue, and may have and use a common seal, which it may change or alter at its pleasure, and may acquire by purchase, or by condemnation proceedings in the probate court of Jefferson county, in the name of the State of Alabama, such property, real and personal, as may be necessary or proper for its purposes, and may have and exercise all such powers and privileges as may be necessary or proper for carrying out the purposes of its organization, as herein declared.

Feb. 28,
1899, p.
158, § 1.
(r.c.c.)

1955. Directors nominated by governor; terms of office.—The business, property, and affairs of the corporation shall be under the management and control of a board of directors, which shall consist of seven ladies and the governor, the commissioner of agriculture and industries, and the attorney-general of the state, who shall be ex officio directors. The ladies constituting the first board of directors shall be nominated by the governor and confirmed by the senate, and those thus nominated and confirmed shall hold, two for two years, two for four years, and three for six years; those holding for these respective terms to be designated by the governor in making nominations therefor to the senate. Thereafter the lady members of said board shall be elected by the continuing members thereof at the expiration of their respective terms; and all vacancies caused by death, resignation, or otherwise, shall be filled by the board. The term of office of each mem-

1b., § 2.

Reformatory and Industrial School.

ber of the board, after the expiration of the first term, shall be for six years.

Feb. 28,
1899, p.
158, § 3.

1956. Officers, agents, and employes.—The board of directors shall elect a president, vice-president, secretary, and treasurer, and such other officers, agents, and employes as to them shall seem necessary or expedient, whose term of office or employment shall be for such time as the board may prescribe; and the board may remove any such officer, agent, or employe at any time, with or without cause. The board may also fill all vacancies occurring in any such offices.

Ib., § 5.

1957. By-laws.—The board of directors may make such by-laws, rules, and regulations, not inconsistent with the laws of this state, as shall be necessary or expedient for the government and management of said institution, and of its officers, agents, and employes, with power to alter, modify, change, or repeal the same.

Ib.

1958. Meetings of board.—The board shall meet annually, at such time and at such place as may be prescribed by the by-laws; and special meetings may be held at the call of the president; or of the governor, or of a majority of the lady directors, upon such notice as may be prescribed by the by-laws.

Ib., § 6.

1959. White children between ages of six and eighteen provided for.—Said school shall receive, care, and provide for the welfare of white boys between the ages of six and eighteen, who, by their course of conduct or surroundings, are likely to become base or criminal, or hurtful to the state or the best interests of society, to be committed to the keeping of said school under the provisions of this article, or who may be voluntarily committed to its keeping by the parent or parents, or person having them in charge, or who, having no parent, guardian, or other person to care for them, voluntarily commit themselves to its keeping.

Ib., § 7.

1960. Commitment of children to reformatory.—Any justice of the supreme court, chancellor, judge of probate, circuit judge, or judge of any city or criminal court of this state, may cause to be brought before him, upon his own motion, or the sworn complaint of another, any white boy between the ages of six and eighteen years who may come within any of the following descriptions, to wit: Any white boy who is begging, or any one who is offering for sale or selling anything as a mere cover for begging. Any who have been abandoned by their parents, or who have abandoned their parents and homes, and have no visible means of support. Any who do not attend the public schools, and idle

Reformatory and Industrial School.

away their time in the streets, without any actual occupation or means of support. Any who are orphans, and have no sufficient or proper guardianship to care for their physical, moral, and mental welfare, to insure the child against pauperism and crime. Any who may be found destitute, or whose parents are both drunkards, or whose mother is a drunkard, lewd, or in prison; and such child is not supported and controlled. Any who shall have been arrested and brought before police courts repeatedly for petty offenses, and shall appear to be beyond control of parents. And upon any such child being brought before him, such judge shall proceed, at such time as he may appoint, to investigate the condition and surrounding of such child, and upon such investigation, if he shall be satisfied that the child comes within any one of said descriptions, and that it would be for the interest of such child that he or she be committed to said institution, he will make an order to that effect and commit the child to said institution, to be held and provided for under its rules and regulations. At any such investigation, the judge holding the same shall allow any one to appear for the child and resist such commitment; and he shall not make any such commitment if the parent, guardian, or a person who is related to the child within the fourth degree, and sufficiently qualified in his opinion to take care of and provide for the child, will appear and agree in writing to take care of and provide for the child until he shall arrive at the age of sixteen years.

1961. Appeals from decision committing child.—Any child brought before any judge for such commitment, or any person for such child, may, within five days, appeal from the decision of the judge committing him, to the circuit or city court held in the county in which such investigation is had, upon giving bond, with sufficient sureties, to be approved by the judge, and in such sum as may be fixed by him, to have the child forthcoming when the appeal is heard; and if the appeal be taken by any person for the child, the bond shall further provide for the maintenance of the child until said appeal is disposed of. If, upon hearing of the appeal, the decision of the judge causing the commitment is sustained, the child shall be committed by the court to said institution; but if that decision is not sustained, the child shall be discharged. And the judge before whom such investigation is made, or to be made, may issue all process that may be necessary to have the child brought before him, or for commitment; and such process shall be executed by the sheriff of the county.

Feb. 28,
1900, p.
166, § 7.

1962. Time children shall be kept in reformatory.—Any child committed to said institution under the provisions of

ib., § 8.

Reformatory and Industrial School.

this article shall be kept therein until he arrives at the age of twenty-one years, unless sooner dismissed therefrom by the order of the board of directors, or in pursuance of any by-law of the institution, or by the order of the governor of the state.

Feb. 28,
1899, p.
158, § 9.

1963. Reports to legislature.—The ex officio members of the board shall at least once a year visit the institution and examine into its management and condition; and at each session of the legislature they shall make to that body a report touching the institution and its management and condition.

Ib., § 10.

1964. Criminal children sentenced to school.—When any white boy between the ages of seven and sixteen years shall have been tried and convicted of any crime punishable by imprisonment in the penitentiary, or in jail, or by hard labor for the county, before any court of this state, the court may, if of the opinion that the interests of the child would thereby be promoted, sentence such child to commitment to said school, in lieu of such imprisonment, or hard labor for the county.

Ib., § 11.

1965. May receive children without authority of court.—Said institution may, in its discretion, receive any child placed in its care and keeping by its parent or parents, without the authority of any court, and may keep said child until it is twenty-one years of age; but this shall not be done without first making provisions for the maintenance of said child under the rules and regulations of said institution.

Ib., § 12.

1966. Exclusive custody of children who are committed.—From the time of the lawful reception of any child into the institution, and during its stay, said institution shall have the exclusive care, custody, and control of the child, under such rules and regulations as the board of directors may provide.

Ib., § 13.

1967. Instructions given children committed.—The officers of said school shall receive and take into it all children committed thereto by competent authority, or received therein as aforesaid, and shall cause all children in the school to be instructed in such branches of useful knowledge as may be suited to their years and capacities. The boys shall be taught such useful trades as the board may direct, and they shall be taught according to the course of the public schools of the state.

Ib., § 15.

1968. Treasurer of school; bond of.—The treasurer of the school shall, before entering upon the discharge of the duties of office, execute bond, payable to the "Alabama Industrial School," with good and sufficient sureties, and in such sum as the board of directors may prescribe, and with condition to faithfully discharge the duties of his office.

Preparatory School for Mines and Mining.

1969. Detention and keeping of children; authority for.—Feb. 28, 1899, p. 168, § 16. Any commitment under this article, whether by judge, court, or parent, or other person having in charge the child, shall be full, sufficient, and competent authority to the officers and agents of said school for the detention and keeping therein of the child so committed.

1970. Convict children separated from others.—Provision 1b., § 17. shall be made for the care of convict children, separate and apart from the other children, so far as the same can be done with the means at hand.

ARTICLE 30.

PREPARATORY SCHOOL FOR MINES AND MINING. 1971-1974.

SECTION.

1971. Incorporation and name of.
1972. Location and powers of.
1973. Faculty; election and term of office.

SECTION.

1974. Trustees; classification and terms of office.

1971. Incorporation and name of.—Mar. 5, 1901, p. 208, § 1. J. J. Mayfield, E. N. C. Snow, Hugh Morrow, T. H. Aldrich, H. W. DeBardleben, J. Collier Foster, and S. Friedman, and their successors in office, are a body corporate, to be known and styled "A preparatory school for mines and mining for the State of Alabama," for the purpose of preparing the white children of Alabama for the study and pursuit of the science and art of mining.

1972. Location and powers of.—1b., § 2. The situs and place of business of said corporation shall be at Tuscaloosa, Alabama; said corporation may own, possess, and receive by gift, purchase, grant, or devise, or in any other manner, real and personal property, so long as the same may be used for the school purposes, or in any wise contributing to the maintenance or preparing and instructing the white children of the state in the arts and sciences of mining. And the said corporation may dispose of said property by sale, grant, or otherwise, and shall have all other powers necessary to carry into effect and operation the objects and purposes for which the corporation is established, or which have been heretofore granted by the state to other educational institutions not inconsistent with the provisions of this article.

1973. Faculty; election and term of office.—1b. The trustees of said corporation shall elect the professors and teachers in said school, and fix their salaries and terms of office, who shall constitute the faculty of said school, which shall institute and prescribe a course of studies to be pursued in said school, and

School Houses.

the said faculty so constituted may issue certificates of proficiency to the students in said school. A majority of the trustees heretofore appointed shall constitute a quorum for the transaction of all business in behalf of this corporation.

Mar. 5,
1901, p.
208, § 3.

1974. Trustees; classification and terms of office.—The trustees hereinbefore appointed and named shall be divided into five classes, viz.: Classes one, two, three, four, five, and each class shall hold office respectively for the terms of one, two, three, four, and five years each, classification to be determined in the order in which they are named in the first section of this article; at the expiration of the respective terms of each of said trustees his successor shall be elected by a majority of the other trustees; provided, that after the expiration of the term of the trustees herein named, in the manner herein provided, the term of the office as to all successors shall be for five years, and until their successors are elected and qualified.

ARTICLE 31.

SCHOOL HOUSES. 1975-1993.

SECTION.

- 1975. Appropriation for school houses; disbursement of.
- 1976. Limitation of appropriation to any one county.
- 1977. Application of school districts for part of appropriation.
- 1978. Filing and submitting application to county board.
- 1979. Consideration of applications by county board.
- 1980. Record of consideration of application; contents.
- 1981. Amount of appropriation.
- 1982. Plans and specifications for school houses; how furnished.
- 1983. Area of school house lot.
- 1984. County board certifies to state superintendent of education applications approved.

SECTION.

- 1985. State superintendent orders warrant; auditor issues same.
- 1986. Delivery and forwarding of warrants.
- 1987. Statements filed and kept.
- 1988. Receipts for warrants and proceeds thereof.
- 1989. Payment of warrant to district trustees.
- 1990. Account with each county to be kept by state superintendent of education.
- 1991. Warrants not delivered by county superintendent of education.
- 1992. Unexpended balance carried forward.
- 1993. Warrants and the proceeds thereof; how used.

Mar. 2,
1907, p.
174, § 1.

1975. Appropriation for schoolhouses; disbursement of.—The sum of sixty-seven thousand dollars shall be appropriated annually, or so much thereof as is necessary, out of the proceeds arising from the sale of fertilizer tags by the commissioner of agriculture and industries, for the purpose of aiding in the erection or repairing of rural schoolhouses in this state.

Ib.

1976. Limitation of appropriation to any one county.—Not more than one thousand dollars of this appropriation shall be

used or paid out in any one county of this state in a separate fiscal year.

1977. Application of school districts for part of appropriation.—The district trustees of any school district, no part of which lies in an incorporated city, town, or village, having secured bona fide donations or subscriptions of not less than one hundred dollars for the purpose of building or repairing a public schoolhouse in their district, may make application to the county superintendent of education to receive the benefits of this article. Mar. 2,
1907, p.
174, § 2.

1978. Filing and submitting application to county board.—Ib.
The county superintendent of education shall file such application and make a record of same, and submit it to the county board of education.

1979. Consideration of application by county board.—Ib.
The county board of education shall consider and investigate all applications filed, shall approve such as seem just and necessary, giving preference to the most needful.

1980. Record of consideration of applications; contents.—Ib.
The board shall record their proceedings, showing the applications approved by them, the amount of the donation or subscription, and the amount of money which the board recommends to be given to such district.

1981. Amount of appropriation.—Ib.
The amount so recommended for any district shall in no case exceed the amount secured by donation and subscriptions; nor shall the total for any schoolhouse exceed two hundred dollars.

1982. Plans and specifications for schoolhouses; how furnished.—Ib.
No appropriation shall be made for the building of a schoolhouse unless said schoolhouse is built in accordance with the plans and specifications either furnished by or approved by the state superintendent of education.

1983. Area of schoolhouse lot.—Ib., § 2.
No money shall be appropriated for the erection of a new schoolhouse building on a plat of ground of less dimensions than two acres.

1984. County board certifies to state superintendent of education application approved.—Ib.
(r.o.c.)
The county boards of education shall certify to the superintendent of education, in writing, showing the county from which applications approved by them come, the amount or sum of money recommended by said board to be given to such districts, and such statement shall be signed by the county superintendent of education, giving his postoffice address.

1985. State superintendent orders warrant; auditor issues same.—Ib.
(r.o.c.)
Upon the receipt of the certificate by the superintendent

ent of education, he shall request the state auditor to draw his warrant on the state treasurer for the sums or amounts specified therein, and shall lay before the state auditor the statements and information he may possess; the state auditor shall draw his warrant on the state treasurer for the amount of money to be given to each school district, as shown by the certificate, and he shall make each of said warrants payable to the county superintendent of education of the county wherein such districts are situated, and shall indicate thereon for the benefit of what public school district the same is issued.

Mar. 2,
1907, p.
174, § 3.

1986. Delivery and forwarding of warrants.—Such warrants shall be delivered to the superintendent of education, and he shall forward the same to the different county superintendents of education as the same are payable.

Ib.

1987. Statements filed and kept.—The statements from which said warrants are made up shall be delivered or returned to the state superintendent of education by the state auditor, after he has had the use of the same in the issuance of said warrants, and shall be safely kept in the office of the state superintendent of education.

Ib., § 4.

1988. Receipts for warrants and proceeds thereof.—All persons or officers receiving any warrant or the proceeds thereof issued under this article shall execute a receipt to the person or officer from whom he receives the same, describing such warrant.

Ib.

1989. Payment of warrant to district trustees.—Whenever it shall be shown to the satisfaction of the county superintendent of education that the erection or repair of a public schoolhouse has been commenced and the amount of subscription or donation secured and a deed has been executed, conveying to the State of Alabama for the benefit of said district the lot or parcel of land on which said public schoolhouse is being erected or repaired, the county superintendent shall endorse and deliver to the district trustees said warrant and the amount or sum of money named in the same shall be paid to said trustees or to their successors in office, the proceeds of which shall be applied by the trustees to the building or repairing of the public schoolhouse for which such warrant was issued.

Ib., § 5.

1990. Account with each county to be kept by state superintendent of education.—The state superintendent of education shall, in a book kept by him for that purpose, open an account with each county in this state, and shall charge against that county the amount of each warrant issued under this article for the benefit of any of the public school districts of such county.

1991. Warrants not delivered by county superintendent of education.—Any of the warrants not delivered by the county superintendent of education by reason of failure of the district to comply with the requirements of this article, shall, after the lapse of six months from the receipt of same by the county superintendent of education, be by him returned to the state superintendent of education, and by him marked cancelled, and if the same has been charged against the county in the book kept under the preceding section, an entry shall be made therein crediting the account of said county with each of such cancelled warrants. Mar. 2,
1907, p.
174, § 5.

1992. Unexpended balance carried forward.—If, at the end ^{1b.} of any year, the whole appropriation for that year has not been exhausted, the state auditor and the state treasurer shall carry the unexpended balance forward, and this balance shall be available, in addition to the regular appropriation for the current year.

1993. Warrants, and the proceeds thereof; how used.—The ^{1b., § 6.} proceeds of all warrants issued under this article shall be used only for the erection or the repair of the public schoolhouses in the district for the benefit of which they shall be issued, and it shall be unlawful to use or apply the same to any other purpose whatsoever.

CROSS REFERENCES.

SCHOOLS (Criminal Code).....	6769, 7750-7755
SCHOOLS; MUNICIPAL (Political Code).....	1348-1358
SCHOOL TAX (Political Code)	1851-1860
SCIRE FACIAS (Civil Code).....	4148-4155
SEAL (Political Code).....	598- 599
“ (Civil Code)	5324, 5174

CHAPTER 42.

SEAL OF THE STATE. 1994.

1994. (3727) (18) (18) **Great seal of the state.**—The seal shall be circular, and the diameter thereof two and a quarter inches; near the edge of the circle shall be the word “Alabama,” and opposite this word, at the same distance from the edge, shall be the words “Great Seal.” In the center of the seal there shall be a representation of an eagle and a shield, and upon such part of the seal as the governor may direct, there shall be the words, “Here we rest.” The seal shall be called the “Great Seal of the State of Alabama.”

(Aikin's Digest, p. 383, § 1; Clay's Digest, p. 530, § 1; Dec. 29, 1868, p. 77; Const. 1875, art. 5, § 20.)

CROSS REFERENCES.

SEAL OF STATE (Political Code)	1994
SEAMEN (Civil Code)	4901-4957
SEARCH-WARRANTS (Political Code).....	1553, 1554
“ (Criminal Code)	7756-7775, 7321
SECRETARIES OF GOVERNOR (Political Code).....	555 et seq.
SECRETARY OF SENATE (Political Code).....	909 et seq.
SECRETARY OF STATE (Political Code)	573- 596
SECRETARY OF SUPREME COURT (Civil Code).....	5968-5970
SECRET TRUSTS (Civil Code).....	4287 et seq.
SECURITIES (Political Code).....	1517, 1520
“ (Civil Code)	4556 et seq.
SECURITY, COLLATERAL (Civil Code)	3301-3305
SECURITY FOR COSTS (Civil Code)	2872, 3687 et seq.
SEDUCTION (Civil Code)	2482, 2483
“ (Criminal Code)	7776
SEED COTTON (Criminal Code).....	6878
SEIZIN; LIVERY OF (Civil Code).....	3364
SEIZURE (Civil Code).....	3194-3200, 5402-5404
SELLING MORTGAGED PROPERTY (Criminal Code).....	7423
SENATE (Political Code).....	900- 928
SENATORIAL DISTRICTS (Political Code)	901
SENATORS, ELECTION OF (Political Code)	(pp. 150-153) 331- 333
SENTENCE (Criminal Code).....	7620-7652
SENTENCE OF DEATH (Criminal Code).....	7639-7652
SENTENCES AND JUDGMENTS IN CRIMINAL CASES (Criminal Code)	7620-7654
SEPARATE ESTATE (Civil Code).....	4486-4504
SEQUESTRATION (Civil Code).....	3213, 3216, 3074
SERVANTS (Civil Code).....	3910-3912
“ (Criminal Code)	6845-6857
SET-OFF AND RECOUPMENT (Civil Code).....	5858-5865
SETTING CASES FOR TRIAL (Criminal Code).....	7338

SETTLEMENTS AND COMPROMISE (Civil Code)	3974
SETTLEMENTS OF ESTATES OF DECEDENTS (Civil Code).....	2666-2742
SEVERANCE (Criminal Code).....	7842
SEWERS AND DRAINAGE (Political Code).....	1302-1308, 1283, 1292
SEWING MACHINE COMPANY (Political Code).....	2361
SHAREHOLDERS (Civil Code)	3467-3480, 4311
SHARES (Political Code)	2182
SHEEP; DOGS KILLING (Civil Code)	2832
SHEEP-KILLING DOG OR HOG (Criminal Code).....	6236
SHELLEY'S CASE (Civil Code).....	3403-3405
SHERIFF (Civil Code).....	5866-5880
" (Criminal Code)	6638-6647
SHIP CHANNEL (Criminal Code).....	7869-7871
SHIPS (Civil Code).....	4901-4957
SHOOTING ACROSS ROAD (Criminal Code).....	7727
SHOOTING GALLERY (Political Code).....	2361
SHRUBBERY (Horticulture) (Political Code).....	811- 826
SIDESHOW (Political Code).....	2361
SIDEWALKS (Political Code).....	1359-1420, 1260-1295
SIGNALS; RAILROADS, ETC. (Civil Code)	5478 et seq.
SIGNATURE (Political Code).....	1
" (Civil Code)	3355
SIGNBOARDS (Civil Code).....	5797, 5801, 5475
SITES FOR COUNTY; CHANGED AND LOCATED (Political Code)..	175- 207
SIXTEENTH-SECTION LANDS (Political Code).....	1781 et seq.
SKATING RINK (Political Code).....	2361
SKIFFS, BOATS, ETC. (Criminal Code).....	6392
SLANDER, LIBEL, DEFAMATION (Civil Code).....	3745-3753
" (Criminal Code)	7338-7341
SLAUGHTER HOUSES (Political Code).....	1279
SLEEPING CAR (Political Code).....	2361
SLEEPING CAR COMPANY (Political Code).....	2087
SLEIGHT OF HAND (Political Code).....	2361
SOCIAL AND LITERARY SOCIETIES (Civil Code).....	3621-3626
SOCIETIES (Civil Code).....	3621-3626
SODOMY (Criminal Code).....	6746
SOIL; ANALYSIS (Political Code)	76- 79
SOLDIERS (Political Code).....	929-992, 1608
" (Civil Code)	6178
" (Criminal Code)	7777

CHAPTER 43.

SOLDIERS AND SAILORS. 1995-2055.

- ARTICLE 1. PENSIONS FOR CONFEDERATE SOLDIERS AND SAILORS. 1995-2037.
 ARTICLE 2. HOME FOR CONFEDERATE SOLDIERS AND SAILORS. 2038-2053.
 ARTICLE 3. EVIDENCE AND PROOF OF SERVICE IN CONFEDERATE ARMY. 2054-2055.

ARTICLE 1.

PENSIONS FOR CONFEDERATE SOLDIERS AND SAILORS. 1995-2037.

SECTION.

1995. Special appropriation for needy Confederate soldiers and sailors.
 1996. Soldiers and sailors who are entitled to pensions.
 1997. The widows of soldiers and sailors who are entitled to provisions.
 1998. County board of examiners appointed by governor.
 1999. Oath of county examiners.
 2000. State board of examiners appointed by governor.
 2001. Oath of state examiners.
 2002. Vacancies in boards of examiners; how filled.
 2003. Meeting of county board of examiners.
 2004. Notice of meeting.
 2005. Office hours.
 2006. Meeting of state board of examiners.
 2007. Application of soldiers and sailors for pensions; form and contents of.
 2008. Widow's application for pension; form and contents of.
 2009. Widow of Confederate veteran who was on pension roll.
 2010. Examination of applicants for pension.
 2011. Decision of county board submitted to state board.
 2012. Applications and papers forwarded to auditor.
 2013. State board of examiners receives and examines applications forwarded by county board and classifies same.
 2014. State board returns applications to auditor.
 2015. Compensation of examiners for pensions.

SECTION.

2016. Warrants for pensions.
 2017. Pensions classified.
 2018. Record and list of pensioners kept by auditor.
 2019. Applications rejected returned to county board.
 2020. Auditor furnishes probate judges abstract or copies of list of pensioners.
 2021. Blanks, applications, etc., for pension.
 2022. Blanks and records; how paid for.
 2023. Amount of pension prorated according to classes.
 2024. Pensioners; warrants drawn by auditor and delivered to probate judges.
 2025. Revision of pension roll by board of examiners.
 2026. Warrants of pensioners who die; disposition of by probate judge.
 2027. Applicant rejected; who may apply a second time.
 2028. Causes not good ground for rejecting application.
 2029. Pension secured by misrepresentation stricken from record.
 2030. Examiners may administer oath.
 2031. Special tax levied.
 2032. Soldiers and widows who are excluded from benefit of this chapter.
 2033. Transfer of pension claim or warrant prohibited.
 2034. Penalty for unlawful transfer.
 2035. Octogenarian pensioners of the first class.
 2036. Proof of age of pensioners.
 2037. Pensioners erroneously dropped from roll; how restored.

Pensions for Confederate Soldiers and Sailors.

1995. Special appropriation for needy Confederate soldiers and sailors.—The sum of four hundred thousand dollars is annually appropriated out of the treasury for the additional relief of needy Confederate soldiers and sailors, who are resident citizen of the State of Alabama, and their widows. Sep. 23,
1903, p.
249 § 1;
Mar. 6,
1907, p.
302, § 1.
(r.o.c.)

1996. Soldiers and sailors who are entitled to pensions.—Any resident citizen of this state at the time of filing his application, who, while in the military or naval service of this state or the Confederate states, lost a leg or an arm, or the use thereof, or who, from wounds received while in such service, or who, from sickness or old age, or who is blind or deranged, and unable at the time to make a living by physical labor by reason of his permanent disability, and who did not desert the service of the Confederate States or the State of Alabama, and who does not now own property to the value of four hundred dollars, and whose salary or income does not exceed three hundred dollars per annum, shall be entitled to the provisions of this chapter. Feb. 10,
1899, p.
223, § 1.
(r.o.c.)

1997. The widow of soldiers and sailors who are entitled to provisions.—The widow of any soldier or sailor of this state or of the Confederate States, who has not married since the death of such soldier or sailor, and whose husband did not desert the service of the state or of the Confederate States, and who was a resident citizen of the state on the first day of January, 1899, and who is a resident citizen of the state at the time of filing her application, and who does not own property to the value of four hundred dollars, shall also be entitled to relief under the provisions of this chapter, as hereinafter provided. Ib.

1998. County board of examiners appointed by governor.—The governor shall appoint for each county in the state two examiners, whose terms of office shall be for six years from the date of appointment, one of whom shall be a practicing physician of good standing in his profession, and the other an ex-Confederate soldier or sailor of good moral character; the two shall constitute a board of examiners of pensions for the county in which they are appointed, and as such shall discharge all the duties prescribed for said board by this chapter. Ib., § 2.

1999. Oath of county examiners.—Before entering upon the discharge of the duties prescribed for the county board by this chapter, each of said appointees shall file with the judge of probate of the county an oath in writing, to be administered by said judge, that he will honestly and faithfully discharge all the duties that devolve upon him as such examiner. Ib.

2000. State board of examiners appointed by governor.—The governor shall appoint three resident citizens of this state, whose term of office shall be for six years from date of appoint- Ib., § 3.

Pensions for Confederate Soldiers and Sailors.

ment, one of whom shall be a practicing physician, of good standing as such in the state, and the other two ex-Confederate soldiers of good moral character. The three shall constitute a state board of examiners of pensions, and as such shall discharge the duties of such board as hereinafter provided by this chapter.

- Feb. 10,
1890, p.
226, § 3. **2001. Oath of state examiners.**—Each of such appointees, before entering upon the duties of such examiners, shall file in the office of the secretary of state a written oath that he will honestly and faithfully discharge all the duties that may devolve upon him as a member of said board of examiners.
- Ib. **2002. Vacancies in boards of examiners; how filled.**—All vacancies that may occur in either the county or state board of examiners shall be filled by appointment made by the governor, as the original appointments were made.
- Mar. 4,
1901, p.
168, § 1. **2003. Meeting of county board of examiners.**—Upon the first Monday in July in each year, the county board of examiners shall meet at the county seat of their respective counties and open an office for the examination of applicants for pensions under this chapter.
- Ib. **2004. Notice of meeting.**—They shall give due notice by publication in some newspaper in the county or by posting at the courthouse door of the county and five other public places for three weeks, of the time and place of their meeting.
- Ib. **2005. Office hours.**—They shall keep their office open for the examination of applicants from nine o'clock a.m. until four o'clock p.m. on week days for the first ten days after the first Monday in July, after which they may keep open for such time as may be necessary to examine the applications filed with them.
- Ib., § 2. **2006. Meeting of state board of examiners.**—The state board of examiners shall meet at the capitol in the city of Montgomery on the second Monday in August in each year (they having been notified by the auditor that there were applications to be passed upon) for the purpose of examining applications submitted to them as hereinafter provided. They shall continue in session until all applications filed with them shall be passed upon; but they shall not receive pay for more than fifteen days during the year.
- Ib., § 3.
(r.c.c.) **2007. Applications of soldiers and sailors for pensions; form and contents of.**—Any soldier or sailor who served in the Confederate army or in the militia, who deems himself entitled to the benefits of this chapter, shall file with the county board of examiners his application in writing upon blanks to be furnished him by the judge of probate of the county in which he

Pensions for Confederate Soldiers and Sailors.

resides, setting forth that he was a Confederate soldier or sailor, or a soldier or sailor in the service of the State of Alabama, that he did not desert the service, that neither he nor his wife is possessed of property to the value of four hundred dollars, that his income does not exceed three hundred dollars for salary or otherwise, that in consequence of his disabled condition he cannot make a living by manual labor; he shall also state in what company and regiment (provided he was in a regiment), and what branch of the service he served; whether he was honorably discharged or whether he surrendered with the army; giving his age and the nature of the wound he received, and in what engagement he was wounded, and the reason why he cannot make a livelihood by manual labor; and his postoffice. The averments of the application must be sworn to by the applicant before one of the county board of examiners, or some other officer authorized by law to administer an oath. The fact of his having served in the Confederate army or in the state troops of Alabama must be proven by the affidavit of two reliable persons who are acquainted with the facts; such affidavit must be sworn to before some officer authorized to administer an oath, and if such officer and witnesses be nonresidents of the State of Alabama, the veracity of the witnesses shall be certified to by the officer taking the affidavit. When any applicant has his parole or honorable discharge, said instrument shall be prima facie evidence of his right to a pension. No inmate of the soldiers' home at Mountain Creek shall be eligible as a pensioner under this article.

2008. Widow's application for pension; form and contents of.—If any widow of any Confederate soldier or sailor, or the widow of any Alabama soldier or sailor who served the state in the war between the states, who has been in good faith a citizen of Alabama for one year, who is a citizen of the state at the time of filing her application, deems herself entitled to the benefits of this article, she shall file with the board of examiners of the county of her residence, her application in writing upon blanks to be furnished by the judge of probate of the county, stating the name of her deceased husband, the company and regiment to which he belonged, whether he was killed or died in the service or not; that she has no children living with her upon whom she can depend for support; that she has not since remarried; that the value of all her property does not exceed four hundred dollars, and that she has not sufficient means of support. She shall also file with said board a complete inventory of all the property, both real and personal, that she owns, which application must be sworn to by the applicant, and the fact of her deceased husband having served as alleged,

Mar. 4,
1901, p.
168, § 4.
(r. c. c.)

Pensions for Confederate Soldiers and Sailors.

and of his not deserting, must be proven by the affidavit of two reliable witnesses, who are acquainted with the facts, or by a parole or discharge given him at the surrender; such affidavit must be sworn to before some officer authorized to administer an oath, and if the officer and witnesses are nonresidents of the State of Alabama, the officer taking the affidavit must certify to the veracity of the witnesses.

Mar. 4,
1901, p.
168, § 4.

2009. Widow of Confederate veteran who was on pension roll.—The widow of any Confederate veteran whose name is now on the pension roll as now existing shall be placed on the pension record, and she shall become entitled to the amount of money allowed by law to the widows of Confederate veterans upon proof by two reputable witnesses that she is the widow of such Confederate veteran and has not remarried since the death of her husband.

Ib., § 5.

2010. Examination of applicants for pension.—At the July term or session of the county board in each year, they shall call before them all applicants for pensions under this chapter, and subject them to an oral and physical examination, reducing said examination to writing, to be submitted to the state board of examiners; they shall also furnish to the state board their total valuation of the property owned by the applicant. If the county board of examiners shall find themselves unable to decide upon an application from the evidence submitted, or if the applicant is unable to appear by reason of inability to travel, or insanity, they shall summon witnesses or consider other evidence they may be able to secure in passing upon the application.

Ib.

2011. Decision of county board submitted to state board.—The county board shall submit to the state board of examiners, through the auditor of the state, their decision in each case examined by them, stating whether or not the application should be granted, and if granted, from what disability the applicant is suffering, together with the comments or information that may be of value to said state board in arriving at an equitable decision.

Ib.

2012. Applications and papers forwarded to auditor.—All applications passed upon by the county board, together with all papers pertaining thereto, including their own findings, whether the application be granted or not, shall be by the county board of examiners forwarded to the auditor at Montgomery, on or before the 5th day of August in each year.

Ib., § 6.

2013. State board of examiners receives and examines applications forwarded by county board and classifies same.—The state board of examiners shall receive from the auditor the applications forwarded him by the county board, and examine

Pensions for Confederate Soldiers and Sailors.

carefully and separately each application, together with all the evidence furnished by said county board, and decide whether or not the application should be granted, and if granted, in what class the pensioners shall be placed. If the application be granted, they shall so indorse upon the back of the application. If the application is refused, they shall so indorse it, giving the grounds of refusal.

2014. State board returns applications to auditor.—After the board of state examiners shall have passed upon the applications from a county they shall return the same to the auditor, who shall dispose of them as hereinafter provided. Mar. 4, 1901, p. 108, § 6.

2015. Compensation of examiners for pensions.—Each member of a county board shall receive one dollar for each application passed upon. The state board of examiners shall receive four dollars per day for days spent in the actual discharge of duty, together with the actual expense of travel to and from the capitol for one trip only; provided, that in no year shall said board be paid for more than fifteen days' service. Ib., § 7.

2016. Warrants for pensions.—Upon the receipt of an itemized statement, sworn to as other claims against the state, from the county and state board of examiners by the auditor, he finding the same to be correct and unpaid, he shall draw his warrant upon the state treasurer, payable out of the pension fund then on hand, in payment thereof. Feb. 10, 1899, p. 226, § 11.

2017. Pensions classified.—The beneficiaries under this chapter shall be divided into four classes, as follows: Soldiers or sailors who are totally blind, or who have lost two limbs, or the entire use thereof, shall be class number one; those who have lost a leg above the knee or an arm above the elbow shall be class number two; those who have lost a hand or a foot, or the entire use thereof, shall be class number three; and all others, including their widows, shall be class number four. The county board of examiners may, with the approval of the state board of examiners, transfer an applicant from any one of the lower classes to a higher class when, after examination, they find his increasing disabilities entitle him to such transfer. Each class shall participate in the division of the pension fund in the proportion hereinafter provided. Ib., § 12; as amended, Aug. 13, p. 719, § 1.

2018. Record and list of pensioners kept by auditor.—The state auditor shall have prepared a substantially bound and properly ruled record to be used as a permanent state record of pensions, in which he shall have recorded in alphabetical order, according to counties, the names of all pensioners, together with their postoffices, who have been granted relief under this chapter by the boards of examiners, giving the command to which such pensioner belonged, age at the time of Ib., § 13.

SOLDIERS AND SAILORS.

Pensions for Confederate Soldiers and Sailors.

filing his application, branch of service, nature of disability under which he claims a pension, nature of wounds if wounded in the service, and the engagement in which such wounds were received.

- Feb. 10,
1899, p.
226, § 13. **2019. Applications rejected returned to county board.**—All applications rejected by the board shall be returned to the county board of examiners, who shall file them with the judge of probate of the county, to be kept for future reference.
- Ib., § 14. **2020. Auditor furnishes probate judges abstract or copies of list of pensioners.**—The auditor, after completing the record, shall furnish each judge of probate in the state an abstract of all pensioners in his county, which abstract or copy shall be by the judge of probate recorded in a substantially bound and properly ruled book, to be kept in his office as a public record of pensions.
- Ib., § 15. **2021. Blanks, application, etc., for pension.**—The auditor shall prepare and furnish to the judges of probate in the state, sample copies of blank applications, affidavits, and such other blanks as he may deem necessary to carry out the provisions of this chapter. The judge of probate shall have printed a sufficient number of all blanks furnished him for the use of applicants in his county; the same shall be furnished free of cost to those desiring to make application for relief under this chapter.
- Ib. **2022. Blanks and records; how paid for.**—All records, blanks, and other stationery necessary for the use of applicants or the board of county examiners shall be paid for by the county as other stationery, and that used by the auditor shall be paid for by the state, as other stationery.
- Mar. 4,
1901, p.
168, § 8;
Mar. 6,
1907, p.
302, § 2. **2023. Amount of pension prorated according to classes.**—Immediately after the first day of October in each year, the state auditor shall ascertain the amount of pension fund subject to distribution for that year, and prorate the same among all those who have been granted pensions in the ratio as follows: To pensioners of the first class, the sum of twenty-five dollars; to pensioners of the second class, the sum of twenty dollars; to pensioners of the third class, the sum of sixteen dollars; and to pensioners of the fourth class, the sum of twelve dollars and fifty cents, for each quarter; and if the amounts appropriated for the said pensioners are not sufficient to pay said amounts to be paid on the first day of July of said fiscal year, then the amount on hand for the said last quarter shall be divided among all said pensioners pro rata; and if there is on hand for said pensioners an amount more than enough to pay the amount as herein provided for the last quarter in any fiscal

Pensions for Confederate Soldiers and Sailors.

year, then said overplus shall be divided among all the pensioners pro rata. All needy Confederate soldiers and sailors and widows of such soldiers and sailors, who are resident citizens of this state, and who, other than as to residence within this state, are entitled to such pensions under the laws of this state, shall have and enjoy the benefits of the appropriations hereby made.

2024. Pensioners; warrants drawn by auditor and delivered to probate judges.—All moneys appropriated in any manner to the relief of needy Confederate soldiers and sailors and their widows, or collected as special taxes for their benefit, shall be paid quarterly on the first day of October, January, April, and July of said fiscal years. The state auditor, at the end of each quarter, shall draw his warrant in favor of each pensioner, upon the treasurer, payable out of the pension fund, for such amount as may be found due under the provisions of this chapter for the preceding quarter, which warrant, together with a blank receipt to be signed by the payee upon the receipt of such warrant, shall be sent to the judge of probate in the county in which the pensioner resides. The judge of probate shall deliver such warrants to the payee, having them to sign the receipt accompanying, which receipts the judge of probate shall retain in his custody for three months, after which time he shall return to the auditor all receipts by him for such pension warrants, together with any warrants that he may have in his hands which he could not deliver; all warrants so returned to the auditor shall be by him cancelled, and no other warrant shall be issued in the place of those cancelled.

Feb. 10,
1890, p.
p. 226, §
17; Mar.
6, 1907, p.
302, § 2.

2025. Revision of pension roll by board of examiners.—The county board of examiners in each year shall revise the pension roll of their respective counties, and if, upon careful investigation, it should appear to them that any pensioner whose name stands on the roll is in any way illegally drawing a pension, the name of such pensioner, together with the name of any pensioner who has died or removed from the state, shall be sent to the state board of examiners, with a recommendation that the name of such pensioner be erased from the pension roll. If, upon receipt of such information by the state board of examiners, it should appear to them that any erasures should be made from the roll, they shall so notify the probate judge, and no warrant shall thereafter be issued to any pensioner whose name the state board of examiners shall decide should be erased from the pension roll.

Oct. 9,
1906, p.
402, § 1.

2026. Warrants of pensioners who die; disposition of by probate judge.—Should a pensioner die after the office of the county board of examiners has been closed and prior to the

1b.

Pensions for Confederate Soldiers and Sailors.

issuance of the warrant, and the name of the widow of such pensioner has not been placed upon the pension roll for the same year, the judge of probate shall deliver the warrant to the widow or minor child, or children of such deceased pensioner, and should there be no widow or minor child of such deceased pensioner, the judge of probate shall endorse and collect the warrant and attach to it his certificate, showing the facts upon which he is authorized to so endorse and collect the warrant, and the proceeds thereof he shall apply first, to the payment of the burial expenses; second, to the expenses of the last illness of such pensioner.

Feb. 10,
1899, p.
226, § 19.

2027. Applicants rejected; who may apply second time.—It shall not be necessary for any soldier, sailor, or widow, who has been granted a pension, to make application the second time, but those who have been rejected may file their application again, if they were not rejected for an attempt at fraud, or false statements, or for not having served in the Confederate army, or in the troops of Alabama; these are barred from making a second application.

Mar. 4,
1901, p.
168, § 10.

2028. Causes not good ground for rejecting application.—The failure of an applicant to give the date of enlistment or discharge, or the letter of the company or regiment in which he served, shall not be sufficient cause of rejection. Neither shall the fact of having done service in the home guard or state reserve or state militia of any other state than Alabama entitle an applicant to relief under this chapter.

Feb. 10,
1899, p.
226, § 21.

2029. Pension secured by misrepresentation stricken from record.—If it shall be ascertained that any pensioner secured the grant of his pension by misrepresentation, either by himself or others, his name shall be stricken from the pension record of the county and state, and the fact reported to the grand jury for their investigation.

Ib., § 22.

2030. Examiners may administer oath.—Each member of the county board may administer oaths to applicants and witnesses. Any applicant under this chapter, or any witness examined, or whose affidavit is used in connection with an application, who swears falsely, to any material matter in connection therewith, shall be guilty of perjury.

Ib., § 23.

2031. Special tax levied.—To carry out the provisions of this chapter, a special tax of one mill on each dollar of the taxable property of the state shall be assessed and collected annually, as other taxes are, but separately reported by the assessors and collectors and set apart in the treasury to carry out the provisions of this chapter.

Pensions for Confederate Soldiers and Sailors.

2032. Soldiers and widows who are excluded from benefit of this chapter.—The benefit of this chapter shall not enure to any soldier or sailor, or the widow of any soldier or sailor, who owns four hundred dollars' worth of property, or who has an annual income of three hundred dollars or more. Feb. 10,
1899, p.
226, § 23.

2033. Transfer of pension claim or warrant prohibited.—No person shall purchase or receive a transfer of any pension claim or warrant issued or to be issued under this chapter, before the date provided for issuing warrants herein provided, unless transferred for face value for supplies or merchandise, or unless discounted at nothing more than legal rate of interest. Mar. 4,
1901, p.
191, §§ 1
and 2.

2034. Penalty for unlawful transfer.—Any person acquiring a pension, claim, or warrant in violation of the preceding section shall be liable to a penalty in an amount equal to the face value of such claim or warrant, recoverable at the suit of any person who may sue for the use of the pensioner or payee of such warrant or claim. 1b.

2035. Octogenarian pensioners of the first class.—All Confederate soldiers, sailors, and their widows, who are now on the pension rolls of the State of Alabama, and who are over the age of eighty years, shall be entitled to and receive a pension of the first class and be classed as pensioners of the first class. Aug. 6,
1907, p.
550, § 1.

2036. Proof of age of pensioners.—Proof of the age prescribed in the preceding section may be made at any time by the affidavit of any competent witness taken before and certified by the judge of probate of any county, and when so made, the judge of probate shall immediately forward same to the state auditor, and the said auditor shall forthwith place such person on the pension roll of the first class. Ib., § 2.

2037. Pensioners erroneously dropped from roll; how restored.—Whenever it is made to appear to the county board of examiners of pensions that a pensioner who had been admitted to the pension roll and had been paid a pension under the laws of Alabama, and who is still entitled to a pension, and whose name had, through mistake, omission, or inadvertence, been dropped from or left off the list of pensioners, the board shall certify such fact and the length of time omitted or dropped, and the amount due such pensioner, to the state auditor, and he shall thereupon, if fully satisfied that such pensioner is justly entitled to be restored, issue his warrant for such amount and restore such pensioner to the list. Aug. 13,
1907, p.
724, § 1.

SOLDIERS AND SAILORS.
Home for Confederate Soldiers and Sailors.

ARTICLE 2.

HOME FOR CONFEDERATE SOLDIERS AND SAILORS. 2038-2053.

SECTION.

2038. Soldiers home at Mountain Creek established.
2039. Executive committee of the home.
2040. Vacancy in board; how filled.
2041. Certificate of appointment of board of control.
2042. Powers of board of control.
2043. Governor ex-officio president.
2044. Veterans who are eligible.
2045. Rules and regulations by board of control.
2046. Expenses and compensations of board of control.

SECTION.

2047. Appropriation and payment of same.
2048. Commandant of home also secretary and treasurer.
2049. Term of office and removal of commandant.
2050. Bond of commandant.
2051. Board may receive contributions.
2052. Disbursement of money and property.
2053. Report of commandant.

Oct. 6,
1908, p.
280, § 1.

2038. Soldiers' Home at Mountain Creek established.—The governor shall nominate and appoint one person from each congressional district in the state, and three from the state at large, who shall be known Confederate veterans, so far as practicable, and who, with the governor, shall constitute a board of control for the Soldiers' Home at Mountain Creek, which was conveyed to the state by Jefferson M. Faulkner, and each of said members shall serve for the period of six years from the time of their appointment, and until their successors are appointed and qualified, except the governor.

Ib.

2039. Executive committee of the home.—The three trustees from the state at large shall constitute an executive committee to manage such business of the home as shall be delegated and conditioned to them by the full board.

Ib.

2040. Vacancy in board; how filled.—If any vacancy occurs by resignation, or otherwise, the governor shall fill it. Five members of the board shall constitute a quorum for the transaction of business.

Ib., § 2.

2041. Certificate of appointment of board of control.—The secretary of state shall furnish a certificate to each member of the board of control, within ten days of his appointment, notifying him that he has been appointed; and if any member fails, for the space of thirty days, to inform the governor of his acceptance, then his appointment shall be void and his place shall be filled as heretofore provided in cases of vacancy.

Ib., §§ 3
and 5.

2042. Powers of board of control.—The board of control of the Soldiers' Home, and their successors in office, are a body corporate and politic, and may have a seal, sue, contract and be contracted with, and may own, purchase, sell, and convey property, both real and personal; and may do all things

necessary and proper to establish a home for indigent Confederate veterans.

2043. Governor ex officio president.—The governor shall convene the board of control to consider any business connected with the home whenever he shall deem it expedient to do so. Oct. 6, 1908, p. 280, § 4.

2044. Veterans who are eligible.—Only indigent Confederate veterans and their wives, when accompanied by their husbands, who shall have been bona fide residents of the State of Alabama for two years prior to making application for admission into the home, shall be eligible as beneficiaries under this article. Ib., § 5; as amended, Aug. 14, 1907, p. 697, § 1.

2045. Rules and regulations by board of control.—The board shall appoint such officers and employes, regulating their compensation, as are necessary to the successful operation of the home, and shall make such rules and regulations for the admission of inmates and government of the officers and employes and inmates as it may deem advisable. Ib., § 6.

2046. Expenses and compensation of board of control.—The members of the board of control, as herein provided, shall receive as compensation for their services, their actual expenses while attending the meetings, or while on other business of the home to which they have been appointed by the board, payable out of any money belonging to said home. Ib., § 7.

2047. Appropriation and payment of same.—The following appropriations are made out of the treasury of the State of Alabama for the purposes named: For building eight servants' houses, two thousand dollars; for repairs and insurance on buildings, two thousand dollars; for the maintenance of inmates and the payment of cooks and other necessary labor, per capita, one hundred and fifty dollars per annum for each inmate in the home at the beginning of each quarter, payable at the beginning of each quarter on the order of the executive committee of the board of control. For the payment of the salaries of the officers of the home as follows: Commandant, per annum, one thousand two hundred dollars; adjutant, six hundred dollars; resident physician, six hundred dollars; for hospital help, one thousand dollars, payable at the beginning of each quarter on the order of the executive committee. For the payment to the inmates of the home, the sum of one dollar per month each so long as they are inmates, payable at the beginning of each quarter on the order of the executive committee of the board of control. The state auditor shall draw his warrant on the state treasurer in favor of the commandant and treasurer of the Soldiers' Home at Mountain Mar. 5, 1907, p. 222, §§ 1 and 2.

Home for Confederate Soldiers and Sailors.

Creek, upon the certificate of the executive committee of the board of control of said soldiers' home, for the amounts herein appropriated.

Oct. 6, 1908,
p. 260, § 11.

2048. Commandant of home also secretary and treasurer.—

The board shall elect a commandant and adjutant, who shall, if practicable, be a Confederate veteran, and who shall also be secretary and treasurer, and who shall attend the meetings of the board and record its proceedings in a well-bound book, and collect and disburse the moneys of said home under such rules and regulations as may be prescribed by the board, and be held strictly accountable to them. The other employes and inmates shall be under his direct control and care.

ib.

2049. Term of office and removal of commandant.—The commandant must be appointed for a term not less than two years, but may be removed by the board for incompetency or unfitness, or for neglect of the trust reposed in him.

ib.

2050. Bond of commandant.—The commandant shall give bond with good and sufficient surety, to be approved by the executive committee, which bond shall be ample to secure all funds and other effects of the home placed in his hands; and the board may require of the commandant an additional or new bond whenever necessary.

ib., § 12.

2051. Board may receive contributions.—Said board may solicit and receive money or other property for the use and benefit of the home.

ib.

2052. Disbursement of money and property.—The money and property collected shall be paid into the treasury and disbursed under the direction of the board in the same manner as other moneys shall be paid under the provisions of this article, for either the construction of additional buildings, repairing the same, or for the maintenance of the inmates of the home, or for the establishment of a library for the use and benefit of the home.

ib., § 13.

2053. Report of commandant.—The commandant shall make an annual report to the board of trustees, and such other reports as may be required of him by the board, giving the number of the inmates, the receipts and expenditures, and such other information as may be necessary to give a practical history of the home, for the time covered by the report, with such recommendations as he may deem necessary and proper.

ARTICLE 3.

EVIDENCE AND PROOF OF SERVICE IN CONFEDERATE ARMY. 2054, 2055.

SECTION.

2054. Affidavit and proof of service.

SECTION.

2055. Evidence; when reduced to writing.

2054. Affidavit as proof of service.—Upon the application of any Confederate soldier or sailor, resident citizens of Alabama, to any county board of examiners for a pension under the pension laws of Alabama, the fact of his having served in the Confederate army, or in the state troops of Alabama, may be proven by the affidavit of two reliable persons who are acquainted with the facts, or in the event such affidavits cannot be procured upon affidavit to that fact, such fact may be proven by any other evidence that will reasonably satisfy said board of such service, and upon the application of the widow of any soldier or sailor, or the widow of any Alabama soldier or sailor who served in the state in the war between the states, the fact of her deceased husband having served as alleged, and of his not deserting, may be proven by the affidavit of two reliable witnesses who are acquainted with the facts; or if such witnesses cannot be found, upon affidavit to that fact, it may be proven by any evidence that will reasonably satisfy the board of the truth of such facts.

Aug. 14,
1907, p.
648, § 1.

2055. Evidence; when reduced to writing.—Whenever the proof of such facts is made by other evidence than the affidavit of two reliable witnesses, as now provided by law, the board shall cause such evidence to be reduced to writing and subscribed and sworn to by the witness offering the evidence.

ib., § 2.

CROSS REFERENCES.

SOLDIERS AND SAILORS; PENSIONS FOR (Political Code) 1995-2055
SOLICITOR (Civil Code) 5931, 5932, 3004
 " (Criminal Code) 7778-7804
SOLICITOR PRO TEM (Criminal Code) 7787-7789
SOVEREIGNTY OF STATE (Political Code) 2056-2059
SPEAKER OF HOUSE OF REPRESENTATIVES (Political Code) . 900 et seq.
SPECIAL VENIRES (Criminal Code) 7257-7269
SPIRITUOUS LIQUORS (Political Code) 492-511, 2361
SPRINGS; POISONING (Criminal Code) 7575 et seq.
STABLE KEEPERS (Civil Code) 4806, 4807
STALLIONS (Civil Code) 3955, 3956, 4810-4813
STARE DECISIS (Civil Code) 5965
STATE (Political Code) 83-85, 2413-2428
STATE (Escheats to) (Civil Code) 3918-3926
STATE; ACTION BY (Civil Code) 2440-2450
STATE AUDITOR (Political Code) 597- 615

CHAPTER 44.

STATE; SOVEREIGNTY AND JURISDICTION OF. 2056-2059.

SECTION.

2056. Sovereignty and jurisdiction;
extent of.
2057. Authority and jurisdiction;
how maintained.

SECTION.

2058. Flag of the state.
2059. When displayed.

2056. (3749) (15) (15) (19) (18) Sovereignty and jurisdiction; extent of.—The sovereignty and jurisdiction of the state extend to all places within the boundaries thereof; but the extent of such jurisdiction over places that have been or may be ceded to the United States is qualified by the terms of such cession.

Origin and history of judicial system.—Toulmin's Digest, pp. 154-206. For original classification of state, see Toulmin's Digest, pp. 106-154.

2057. (3750) (16) (16) (20) (19) Authority and jurisdiction; how maintained.—It is the duty of the governor, and all the subordinate officers of the state, to maintain and defend its authority and jurisdiction.

2058. (3751) Flag of the state.—The flag of the state of Alabama shall be a crimson cross of St. Andrew on a field of white. The bars forming the cross shall be not less than six inches broad, and must extend diagonally across the flag, from side to side.

(Feb. 16, 1895, p. 719, § 1.)

2059. (3752) When displayed.—The flag of the state shall be hoisted on the dome of the capitol when the two houses of the legislature are in session, and shall be used by the state on all occasions when it may be necessary or customary to display a flag, except when, in the opinion of the governor, the national flag should be displayed.

(Feb. 16, 1895, p. 719, § 2.)

CROSS REFERENCES.

STATE TREASURER (Political Code).....	616-633, 1780
STATE TROOPS (Political Code).....	929- 998
STATIONERY (Political Code)	2359, 153, 213
" (Civil Code)	3318, 5879, 3079, 3080
STATISTICAL REGISTER (Political Code).....	802
STATUTE OF FRAUDS (Civil Code).....	4287-4299
STATUTE OF LIMITATIONS (Civil Code).....	4830-4841
" (Criminal Code)	7344-7351
STATUTE OF USES (Civil Code).....	3408
STATUTES (Political Code)....	586-591, 1660-1662
" (Criminal Code)	7805, 7806
STATUTORY RIGHT OF REDEMPTION (Civil Code).....	5746-5759
STEALING (Larceny) (Criminal Code)	7324-7337
STEAMBOATS (Civil Code)	4790, 5478, 5479, 4901-4957
" (Criminal Code)	7807-7812
STOCK, ANIMALS (Civil Code)	2832 et seq., 4240 et seq.
STOCKHOLDERS AND STOCKS (Civil Code).....	3467-3480, 4311, 5664
STOCK KILLING; BY RAILROADS (Civil Code)	5508-5513
STOCK KILLING; TRESPASSING (Civil Code).....	4240-4250
STOCK LAW DISTRICTS (Civil Code).....	5881-5898
" (Criminal Code)	7813
STOCK LAW DISTRICTS; MUNICIPALITIES (Political Code).....	1285
STOCK QUARANTINE (Political Code).....	757- 770
STORAGE BY WAREHOUSEMAN (Civil Code).....	6123-6142
STOVE COMPANY (Political Code).....	2361
STRAYS (Civil Code).....	3927-3954
STREAMS OF WATER (Civil Code)	6143-6150
" (Criminal Code)	7863-7871
STREET CROSSINGS, GRADES, ETC. (Political Code).....	1272
STREET IMPROVEMENTS (Political Code).....	1359-1420, 1260-1295
STREET RAILROAD; MUNICIPAL REGULATION (Political Code)	1267-1269
STREET RAILWAY COMPANIES (Civil Code)	3501, 3481 et seq.
STREETS AND BRIDGES; OFFENSES CONCERNING (Criminal Code)	7727-7745
STUMPAGE LIEN (Civil Code).....	4814-4817
SUBPOENAS (Civil Code).....	3151, 3152, 4020 et seq.
SUBPOENAS DUES TECUM (Civil Code).....	4060, 4061
SUBPOENAS FOR WITNESSES (Civil Code).....	4020-4029
SUBROGATION (Civil Code)	5384, et seq., 4091
SUBSCRIBING WITNESS (Civil Code).....	3355, 3357, 4006, 6172
SUBSCRIPTION (Political Code).....	1
SUBSTITUTION OF RECORDS (Civil Code)	5738-5745
SUBTENANT (Civil Code)	4734-4753
SUCCESSORS IN OFFICE (Political Code)	1549-1555
SUFFERANCE (Civil Code).....	4753
SUFFRAGE (Political Code).....	290, 293
SUIT (Civil Code)	2440-2506
" (Criminal Code)	6936-6938
SUMMARY JUDGMENTS (Civil Code).....	5899-5947
SUMMER SCHOOL (Political Code)	1894-1898
SUMMONS (Civil Code).....	3097 et seq., 5296 et seq.

SUNDAY (Civil Code).....	3346, 5144, 2938
SUNDAY VIOLATIONS (Criminal Code).....	7814-7819
SUNSET AND SUNRISE (Criminal Code).....	6878
SUPERINTENDENT OF EDUCATION (Political Code).....	1681-1688, 1702-1711
SUPERSEDEAS (Civil Code)	2872-2880, 5374-5381
SUPPLY CAR (Political Code).....	2361
SUPREME COURT (Civil Code).....	5948-6015
SURETIES (Political Code).....	1540 et seq.
" (Criminal Code)	6846
SURETY AND PRINCIPAL (Civil Code).....	5394-5409
SURETY COMPANIES (Political Code)	1507 et seq.
" (Criminal Code)	7006
SURGEON-GENERAL (Political Code).....	920 et seq.
SURGEONS (Political Code).....	994 et seq.
SURGERY (Criminal Code).....	7564
SURVEYORS AND SURVEYS (Civil Code).....	6016-6034
SURVEYORS OF COUNTY (Civil Code).....	6016-6027
SURVEYS, PLATS, AND MAPS OF TOWNS (Civil Code).....	6028-6034
SURVIVAL OF ACTIONS (Civil Code).....	2495-2501
SWAMP AND OVERFLOWED LANDS (Political Code).....	879- 883
TALLADEGA SCHOOL FOR DEAF MUTES AND BLIND (Political Code)	1933-1963
TARIFF ASSOCIATIONS (Civil Code).....	4594-4596
TAX ASSESSMENTS (Political Code)	2102-2145
TAX ASSESSOR (Political Code).....	2094-2101

CHAPTER 45.

TAXATION. 2060-2412.

- ARTICLE 1. DEFINITION OF TERMS. 2060.
ARTICLE 2. EXEMPTIONS FROM TAXATION. 2061-2073.
ARTICLE 3. POLL TAX; SUBJECTS, RATES, MATURITY AND LIEN OF TAXES.
2074-2093.
ARTICLE 4. TAX ASSESSOR; ELECTION, QUALIFICATION AND COMPENSATION;
DEPUTIES. 2094-2101.
ARTICLE 5. ASSESSMENTS; WHEN AND HOW MADE; DUTIES OF TAXPAYER,
ASSESSOR AND APPRAISERS; FILING LISTS AND BOOKS OF
ASSESSMENT AND NOTICE THEREOF; WHEN ASSESSOR SUS-
PENDED. 2102-2132.
ARTICLE 6. ASSESSMENTS AGAINST RAILROAD AND TELEGRAPH COMPANIES;
STATE BOARD OF ASSESSMENT, ITS POWERS AND DUTIES.
2133-2143.
ARTICLE 7. POWERS AND DUTIES OF COURT OF COUNTY COMMISSIONERS,
AND DUTIES OF JUDGE OF PROBATE TOUCHING ASSESSMENTS;
LEVY OF COUNTY TAXES. 2146-2159.
ARTICLE 8. TAX COLLECTOR; ELECTION, QUALIFICATION AND COMPENSA-
TION; DEPUTIES. 2160-2168.
ARTICLE 9. COLLECTING, REPORTING AND PAYING OVER TAXES; INTEREST;
ESCAPED TAXES; ERRORS; INSOLVENCIES; LITIGATED TAXES;
SETTLEMENTS; WHEN COLLECTOR SUSPENDED. 2169-2209.
ARTICLE 10. STATE TAX COMMISSION. 2210-2267.
ARTICLE 11. SALE OF LANDS FOR PAYMENT OF TAXES; DOCKET, NOTICE, DE-
CREE AND CONDUCT OF SALE; CERTIFICATE AND DEED TO
PURCHASER. 2268-2299.
ARTICLE 12. RIGHTS AND REMEDIES OF PURCHASERS OF LAND AT TAX SALE;
STATUTE OF LIMITATIONS. 2300-2312.
ARTICLE 13. REDEMPTION OF LANDS SOLD FOR TAXES; SALES BY THE STATE.
2313-2328.
ARTICLE 14. CANCELING ERRONEOUS SALES AND REFUNDING PURCHASE-
MONEY. 2329-2331.
ARTICLE 15. ERRONEOUS SALES. 2332-2339.
ARTICLE 16. TO REFUND MONEY PAID FOR TAXES NOT DUE. 2340-2347.
ARTICLE 17. GENERAL DUTIES OF AUDITOR IN SUPERVISING THE ENFORCE-
MENT OF THE REVENUE LAWS; MISCELLANEOUS PROVISIONS.
2348-2360.
ARTICLE 18. LICENSE TAXES; FROM WHOM AND FOR WHAT BUSINESSES
REQUIRED; PRICES; COUNTY LEVY. 2361-2363.
ARTICLE 19. FRANCHISE TAX OF COMMON CARRIERS. 2364-2390.
ARTICLE 20. FRANCHISE TAX ON FOREIGN CORPORATIONS. 2391-2400.
ARTICLE 21. ISSUE AND EXPIRATION OF LICENSES; BLANKS AND FORMS;
RECORDS, PAYMENTS AND REPORTS; REFUNDING LICENSE-
MONEY. 2401-2412.

ARTICLE 1.

DEFINITION OF TERMS. 2060.

2060. (3906) (450) Meaning of words and phrases.—When-
ever the terms mentioned in this section are employed in this
chapter, they are employed in the following sense:

Definition of Terms.

1. The term "real property" shall be held to mean and include not only land, city, town, and village lots, but also all things thereunto pertaining, and all structures and other things so annexed or attached thereto as to pass to a vendee by the conveyance of the land or lot.

2. The term "personal property" shall be held to mean and include all things, other than real property, which have any pecuniary value, and moneys, credits, and investments in any bonds, stocks, joint stock companies, or otherwise.

3. The term "money," or "moneys," shall be held to mean and include gold, silver, and other coin, bills of exchange, bank bills, or other bills or notes authorized to be circulated as money, whether in possession, or on deposit subject to the draft of the depositor, or the person having the beneficial interest therein, on demand.

4. The term "credit" includes every claim and demand for money, labor, merchandise, or other valuable things, and money and property of any kind secured by deed of trust, mortgage, or otherwise.

5. The word "person," or "party," or other word or words, importing the singular number, shall be held to include firms, companies, associations, and corporations; and all words in the plural number shall apply to single individuals, in all cases in which the spirit and intent of this chapter require it; and all words importing the masculine gender also shall apply to females; and all words importing the present tense shall also apply to the future.

(Aikin's Digest, pp. 408-423; Clay's Digest, pp. 558-575.) (Original statutes regulating taxes and revenue from 1809 to 1823.—Toulmin's Digest, p. 733 et seq.) Right of way of roadbed and railroad treated as real estate.—Purifoy v. Lamar, 112 Ala. 123 (20 So. 975). Stock in foreign corporation subject to taxation in this state in county of owner's residence.—State v. Kidd, 125 Ala. 413 (28 So. 480), overruling Varner v. Calhoun, 48 Ala. 178. The capital stock of a corporation is taxed as property according to its value.—State v. Stonewall Ins. Co., 89 Ala. 335 (7 So. 753). The test whether a tax is upon the capital stock or whether it is a franchise tax is whether regard be had to the value of the stock.—State v. Stonewall Ins. Co., 89 Ala. 335 (7 So. 753).

ARTICLE 2.

EXEMPTIONS FROM TAXATION. 2061-2073.

SECTION.

- 2061. Property and persons exempt.
- 2062. Exemption of cotton factories from county and municipal taxation.
- 2063. Application for such exemption; how made and granted.
- 2064. Cotton and other agricultural products and pig iron exempt.
- 2065. Property exempt listed.
- 2066. Cotton mills exempt for a term of years from taxation.
- 2067. Ship building plants exempt for ten years.
- 2068. When exemptions shall cease.

SECTION.

- 2069. Water powers exempt from taxation.
- 2070. Calcium cyanamid (lime nitrogen) manufactories exempt from taxation.
- 2071. Alabama agricultural association exempt.
- 2072. Alabama state fair and exhibit association, and persons conducting business with, exempt.
- 2073. Patented property, or property devoted to manufacture of patented articles, and stock of corporations for such purposes, exempt.

2061. (3907) (451) Property and persons exempt.—The following property and persons shall be exempt from taxation:

As amended, Mar. 4, 1908, p. 184; July 17, 1907, p. 483, § 1.

1. All property belonging to the United States.

Swann v. State, 77 Ala. 545; *Bonner v. Phillips*, Ib. 427.

2. All bonds of the United States and of this state; all property, real and personal, of the state, and of the county and municipal corporations in this state; all cemeteries (but where cemeteries are owned, held, and lots sold therein for profit, the same shall not be exempt), and all lots in incorporated cities and towns, or within one mile of any city or town, to the extent of one acre, and all lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, when the same are owned and used exclusively for religious worship, educational, or purely charitable purposes; all school furniture and personal property used exclusively for school purposes; and all property, real or personal, to an extent not exceeding twenty-five thousand dollars in value, that may be used exclusively for agricultural or horticultural associations of a public character, or for the maintenance and education of young men preparing for the ministry in any church or religious association.

State and United States bonds exempt from taxation.—*State v. Stone-wall Ins. Co.*, 89 Ala. 335 (7 So. 753).

3. All the property of literary and scientific institutions and literary societies, when employed or used in the regular business of such institutions.

4. The libraries of ministers of the gospel, and all libraries

Exemptions from Taxation.

other than those of a professional character, and all religious books kept for sale by ministers of the gospel and colporters.

5. All deaf mutes and insane and blind persons, and their property to the value of one thousand dollars.

6. From poll tax, all persons permanently disabled, whose taxable property does not exceed five hundred dollars.

7. All family portraits.

8. The following property, to be selected by the head of each family, viz.: Household and kitchen furniture, not to exceed in value one hundred and fifty dollars; one yoke of oxen, one cart or wagon, two cows and calves, twenty head of stock hogs, ten head of sheep, all poultry, all cotton and other agricultural products which were raised or grown during the preceding year, and which shall remain in the hands of the producer thereof, and all manufactured articles, including pig iron, which shall remain in the hands of the manufacturers thereof, on the first day of October of any year immediately succeeding that in which they were raised or produced; provisions and supplies on hand for the current year, for the use of the family and the making of the crop; all wearing apparel; all looms and spinning-wheels, kept for use of the family; farming tools to the value of twenty-five dollars; tools and implements of mechanics to the value of twenty-five dollars; one sewing machine in each family, when the taxable property does not exceed two hundred and fifty dollars; provided, that no property or subject of taxation shall be exempted from taxation, nor shall any credit, abatement, or deduction be allowed therefrom, unless such property or subject of taxation is entered by the taxpayer upon his assessment list, and returned by him, under oath, to the tax assessor.

(Aikin's Digest, p. 29, § 1; p. 408, § 3; Clay's Digest, p. 558, §§ 3, 5; p. 561, § 23; Feb. 18, 1897, p. 1489, § 38; Feb. 10, 1881, p. 122, § 2.) Prior to the constitution of 1875 it was not unconstitutional to exempt private corporations from taxation; statutes exempting them prior to this time cannot be repealed.—*State v. Ala. Bible Society*, 134 Ala. 632 (32 So. 1011). Taxation of bank share; deduction of shareholders' indebtedness.—*State Bank v. Board of Rev.*, 91 Ala. 217 (8 So. 852). Taxes need not be exact horizontal taxes, nor need it be upon every description of property.—*State Bank v. Board of Rev.*, 91 Ala. 217 (8 So. 852). All property need not be taxed, but if imposed upon any species, all belonging to that species must be taxed at same rate, and the rate must be in proportion to the value.—*State Bank v. Board of Rev.*, 91 Ala. 217 (8 So. 852). Property exempt from taxation is liable to be levied on for the payment of taxes on other property that is taxable.—*Solomon v. Willis*, 89 Ala. 596 (7 So. 160). Every asserted claim of exemption from taxation will be narrowly scanned by the courts.—*Swann v. State*, 77 Ala. 545.

As amended, Mar. 6, 1901, p. 211, § 2.

2062. (3908) Exemption of cotton factories from county and municipal taxation.—For the purpose of encouraging the building and operating of factories for the spinning of thread

Exemptions from Taxation.

and yarns, and the weaving of cloth and other fabrics of cotton and wool in the state, and plants for the purpose of building ships, the court of county commissioners, or other courts having like jurisdiction, of any county, or the constituted authorities of any city or town in which it is proposed to locate such factories or such plants for the purpose of building ships, are authorized and empowered to remit the taxes assessed on such factories and such shipbuilding plants, and on all buildings, works, machinery and other equipment thereof, and on the lands upon which such shipbuilding plants and such factories or buildings are located, and also on all the capital stock of every such shipbuilding plant and factory, for all county or municipal purposes, for a period not exceeding five years from the date of the incorporation or organization of such factory or shipbuilding plant.

(Feb. 21, 1893, p. 855, § 1.) A legislative bounty, subject to repeal.—*Calhoun Co. v. Woodstock I. Co.*, 82 Ala. 151 (2 So. 132). But prior to the statute of 1876 it was not.—*State v. Ala. Bible Society*, 134 Ala. 632 (32 So. 1011).

2063. (3909) Application for such exemption; how made and granted.—In order to obtain the benefits of the exemption from county and city taxation above provided; the person, firm, or corporation owning or controlling such factory or shipbuilding plant must make application in writing to the court of county commissioners or court of like jurisdiction of the county, or to the constituted authorities of the city or town in which it is proposed to locate the same, giving the location thereof, the date of incorporation or organization of the corporation making the application, and praying for an order to be made by them, granting such person, firm, or corporation the exemption provided in the preceding section, which application, if granted, shall be entered on the records of their court, and an order made allowing such exemption, and designating the time when such exemption shall expire; provided, that all such property must be returned to the state for taxation, unless exempted therefrom.

As amended, Mar. 5, 1901, p. 211, § 2.

(Feb. 21, 1893, p. 855, §§ 2, 3.)

2064. Cotton and other agricultural products and pig iron exempt.—Cotton and other agricultural products and pig iron shall be exempt from taxation in the hands of the producer or the hands of the purchaser, purchasing the same for prompt shipment, and pig iron shall be exempt for twelve months after its production.

Feb. 23, 1899, p. 122, § 11; as amended, Mar. 4, 1903, p. 184, § 1.

2065. Property exempt listed.—Cotton and other agricultural products and pig iron as exempted in the preceding section shall be listed on the tax assessment as exempt.

Feb. 23, 1899, p. 122, § 2. (r.c.c.)

Oct. 9,
1908, p.
566, § 1.

2066. Cotton mills exempt for a term of years from taxation.—When any person, co-partnership, association of individuals, or corporation incorporated under the laws of the State of Alabama, shall since the 13th day of February, 1902, have invested, expended, laid out and paid, or shall by the 13th day of February, 1907, invest, expend, lay out and pay, not less than fifty thousand dollars in money in the erection, building, and construction of cotton mills or factories in the State of Alabama, and the buildings, plants, works, machinery, appliances, appurtenances, proper or necessary for the practical operation of such cotton mills, or factories, such person, partnership, association, or corporation shall be entitled to claim and have exempt from assessment and collection for state, county, and municipal taxation, such cotton mills or factories, and the said proper or necessary buildings, plants, works, machinery, appliances, and appurtenances thereof, for the period of ten years only from the 13th day of February, 1902, and the same are exempt from state, county, and municipal taxes during said period of ten years, and all the capital stock of every such cotton mill and factory shall likewise be exempted from all such taxation during such period of ten years, and this section shall also apply to additions costing fifty thousand dollars or more, made during five years from said 13th day of February, 1902, to cotton mills then existing in Alabama; but nothing in this section shall be construed to exempt from taxation the lands on which such cotton mills or factories are erected.

Mar. 5,
1901, p.
213, § 5.

2067. Shipbuilding plants exempt for ten years.—All shipbuilding plants which shall have been erected and put in operation in this state within five years from March 5, 1901, and in the erection, construction, and equipment of which not less than five hundred thousand dollars shall have been bona fide expended in that time, together with the buildings, works, machinery, appliances, and appurtenances thereof, and all additions necessary or proper for its practical operation made to any such plant, its buildings, works, machinery, appliances, and appurtenances within such period of five years, shall be exempt from state, county, municipal, and other taxation during the period of ten years from March 5, 1901; provided, the person or partnership, or association or corporation owning any such plant shall file in the office of the probate judge of the county in which the same is located, a written declaration, under oath, stating where such plant is erected, the name of the owner thereof, the amount intended to be expended in the erection and equipment thereof; that the erection thereof has been bona fide commenced, and when such erection was

Exemptions from Taxation.

commenced; such statement shall be so filed within six months from the time that such erection was commenced. And all the capital stock of any such shipbuilding plant exempted from taxation by the provisions of this section shall likewise be exempted from all state, county, municipal, and other taxation during said period of ten years; but this section shall not be construed to exempt from such taxation any lands upon which any such plant as is exempted by the provisions hereof is erected, or which may be used in connection therewith, nor any buildings or other improvements upon such lands at the time they are acquired for the purposes of such plant, the value of which pre-existing buildings or improvements shall continue to be assessed for taxation during such period of ten years to the owner thereof during such time.

2068. When exemptions shall cease.—The exemption granted as to any cotton mill, factory, or shipbuilding plant becoming entitled to its enjoyment, and as to the capital stock thereof, shall cease whenever the operation of such mill, factory, or plant for the purposes of its construction shall be abandoned. Mar. 5,
1901, p.
218, § 5.

2069. Water powers exempt from taxation.—To encourage the development of the various unused water powers of this state, the plants, and the property, business, and franchises, necessary for the production, transformation, and distribution of electric current, of any person, or firm, or of any corporation, organized for the purpose of developing hydro-electric power for the use of the public, shall, in consideration of the benefits to be derived by the public from the development and operation of such properties and plants, be exempt from state, county, and municipal property and privilege taxation of all description, either under general or local laws, until ten years after the beginning of the construction of any such plant. Nothing in this section shall be so construed as to exempt from taxation the lands upon which such plants are erected; nor shall this section be so construed as to exempt from taxation any of the property, business, or franchises of any hydro-electric power plant already developed. July 27,
1907, p.
520, § 1.

2070. Calcium cyanamid (lime nitrogen) manufactories exempt from taxation.—To encourage the manufacture of calcium cyanamid (lime nitrogen) in this state, the plants, and the property and business necessary for the manufacture of the same, of any person, or firm, or of any corporation organized for the purpose of manufacturing calcium cyanamid (lime nitrogen), shall, in consideration of the benefit to be derived by the public from the manufacture of the same, be exempt from state, county, and municipal property and privilege tax- July 27,
1907, p.
519, § 1.

Exemptions from Taxation.

ation of all description, either under general or local laws, until ten years after the beginning of the construction of any such plant. Nothing in this section shall be so construed as to exempt from taxation lands upon which such plants are erected.

Aug. 6,
1907, p.
561, § 1.

2071. Alabama Agricultural Association exempt.—No license or taxes of any character shall be required by the state, county, or municipality from the Alabama Agricultural Association, or from those who conduct business under contract with it on its grounds during the time its annual fair is actually in progress.

Aug. 2,
1907, p.
541, § 1.

2072. Alabama State Fair and Exhibit Association and persons conducting business with, exempt.—The Alabama State Fair and Exhibit Association, and all persons, firms, or corporations who may conduct business with said association on its fair grounds in Jefferson county during the annual fairs of said association, are exempt from the payment of all state, county, and municipal taxes and licenses.

Aug. 9,
1907, p.
785, § 1.

2073. Patented property or property devoted to manufacture of patented articles, and stock of corporations for such purposes, exempt.—Any person, firm, or corporation who has heretofore patented and owns exclusively, or who has heretofore secured and owns exclusively, or shall hereafter patent and own exclusively, or shall hereafter secure and own exclusively, the patent right on any articles designed for the purpose of protecting human life and property, which article has not heretofore been manufactured for sale, shall be exempt for a period of ten years from August 9, 1907, from taxation upon all of its property which is devoted exclusively to the manufacture of such article and the manufactured products thereof, and patent rights, and the stock of the stockholders of such corporation shall be exempt from taxation for said period of ten years.

ARTICLE 3.

POLL TAX; SUBJECTS, RATES, MATURITY AND LIEN OF TAXES. 2074-2093.

SECTION.

- 2074. Poll tax.
- 2075. Forms of poll tax receipts and blanks furnished by auditor to tax collector.
- 2076. Stubs and receipts.
- 2077. Collector's account to auditor.
- 2078. Time when receipts may be given.
- 2079. Alphabetical list of persons who have paid poll taxes filed in probate court.
- 2080. Compensation of tax collectors for making list.
- 2081. Rate of state taxation.
- 2082. Subjects, objects, and rates of taxation.
- 2083. Enumeration of subjects of taxation not to interfere with other exemptions from taxation.
- 2084. Other subjects of taxation and rates thereon.
- 2085. Telegraph companies to pay privilege tax to state treasurer.

SECTION.

- 2086. Express companies to pay privilege tax to state treasurer.
- 2087. Sleeping car companies to pay privilege license, and franchise taxes to state treasurer.
- 2088. Building and loan associations to pay privilege and property tax.
- 2089. Insurance companies to pay tax on gross receipts.
- 2090. When foreign insurance company considered as doing business in state; taxes against.
- 2091. When taxes become due and when delinquent.
- 2092. Property brought into state after first of October; when taxable.
- 2093. Lien of state and county for taxes.

2074. (3910) (452) Poll tax.—There may be collected, as hereinafter provided, from every male inhabitant in this state, over the age of twenty-one years, and under the age of forty-five years, not exempt by law, the sum of one dollar and fifty cents, as poll tax, which shall be applied exclusively in aid of the public school fund in the counties in which it is levied and collected.

(Original statutes regulating taxes and revenue from 1809 to 1823.—See Toulmin's Digest, pp. 733 et seq.) (Feb. 10, 1881, p. 122, § 3.) Legislature cannot direct levy or collection of poll taxes in any other manner than provided for in the statute.—Francis v. Peevy, 132 Ala. 58 (31 So. 372).

2075. Forms of poll tax receipts and blanks furnished by auditor to tax collector.—The state auditor, with the approval of the governor, shall prepare and have printed suitable forms of poll tax receipts with appropriate blank for name and year for which paid, and date of payment, and before the first day of October in each year, shall furnish to the several tax collectors blank receipts, countersigned by him sufficient for the probable wants of their respective counties, taking their receipts for the same. Each blank receipt for such poll tax shall have a stub attached thereto, on which shall be printed such matter as the auditor may prescribe; the number of such

Feb. 13,
1903, p.
42, § 4

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

receipts and appropriate blank spaces to be filled in by the tax collector, showing by whom paid and when and for what year, and shall take and file in his office a proper receipt from the tax collector for the poll tax receipts so furnished him.

Feb. 12,
1908, p.
42, § 2.

2076. Stubs and receipts.—Upon the payment to him by any person of such poll tax as such person shall offer to pay, the tax collector shall, before detaching said receipt from the stub, fill up the blank spaces in the stub to correspond in all respects with the receipts as given by him to such taxpayer, and sign his name to such receipt.

Mar. 4,
1907, p.
268, § 1.

2077. Collectors account to auditor.—The tax collector shall by the 15th day of February return to the auditor all unused receipts and stubs so delivered to him, or account to the state auditor for all unused receipts and stubs, and shall also return to the auditor the stubs of all receipts issued by him; after the state auditor shall have charged the collector with all poll taxes collected by him and checked the same as shown by the said stubs, he shall return said stub books to the judge of probate of such county in which said poll taxes were collected for record and file in his office.

Feb. 12,
1908, p.
42, § 4.

2078. Time when receipts may be given.—After the first day of February, and before the first day of the next October, the tax collector shall have no authority to receive or receipt for poll taxes due by any person.

Oct. 6,
1908, p.
264, § 1.

2079. Alphabetical list of persons who have paid poll taxes filed in probate court.—During the months of February or March in each year the tax collectors of each county shall prepare, and on or before the first day of April following shall file, in the office of the judge of probate of their respective counties, an alphabetical list, by beats, containing the names of all persons in said counties, respectively, who have, on or prior to the first day of February of the current year, paid a poll tax. Said names shall be entered in a suitable book for that purpose provided at the expense of the county.

Ib., § 2.

2080. Compensation of tax collectors for making list.—For the service required in the preceding section, when performed, the several tax collectors shall be entitled to the sum of two and one-half cents for each name so entered, to be paid out of the general fund of their respective counties on the warrant of the judge of probate.

Mar. 4,
1908, p.
148, § 1.

2081. Rate of state taxation.—The rate of taxation for state purposes in this state shall be sixty-five one-hundredths of one per cent per annum on the value of the taxable property within this state.

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

2082. (3911) (453) Subjects, objects, and rates of taxation.

Amended,
Mar. 4,
1908, p.
185, Con-
stitution
1901, p.
260.

—There is hereby levied for the purposes named, upon the property hereinafter named, in lieu of all taxes heretofore levied, annual taxes as follows, to wit:

(a) For the maintenance of the public schools of the state, thirty cents on each hundred dollars of the assessed valuation of taxable property;

(b) "For the relief of needy Confederate soldiers and sailors, resident citizens of Alabama, and their widows," to be separately reported by assessors and collectors and set apart in the treasury, ten cents on each hundred dollars of the assessed valuation of taxable property;

(c) For the use of the state and to raise revenue therefor, twenty-five cents on each hundred dollars of the assessed valuation of taxable property.

1. Every piece, parcel, tract, or lot of land in this state, including therein all things pertaining to such land, and all structures and other things so annexed or attached thereto, as to pass to a vendee by conveyance of such land; and every separate or special interest in any land, such as mineral, timber, or other interest, when such interest is owned by a person other than the owner of the surface or soil.

How land subject to lease of timber interest should be taxed.—*Freeman v. State*, 115 Ala. 208 (22 So. 560).

2. All wharves and wharf-boats, landings and warehouses, where charges are made, cotton-pickeries, cottonseed-oil mills, compresses, grain elevators, tollbridges, ferries, and turnpikes, and all passes, channels, or canals, where tolls are charged, and street railroads, printing presses, and materials.

Nat. Dredging Co. v. State, 99 Ala. 462 (12 So. 720).

3. All steamboats, vessels, and water-craft of every name and kind, excepting such as are engaged in foreign commerce, to be assessed and collected at the port in this state where such steamboats, vessels, and water-craft are enrolled, or in the county wherein the owner or owners, or those owning the largest aggregate amount of stock in value thereof, may reside, and if such steamboat, vessel, or water-craft is owned by a corporation, then in that county where the principal office of said corporation is situated, or if not enrolled at any port under the laws of the United States, then at any place or landing where the same may be found; all transfer boats, steamboats, or barges used by any railroad in transferring cars and passengers, must be listed and taxed in the county or counties where used; and the tax on such steamboats, ves-

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

sels, and water-craft shall be due and collectible at the port where the same are enrolled, unless paid elsewhere, as provided herein, and the receipt therefor exhibited upon demand to the officer whose duty it is to collect the same at such port.

As amend-
ed, Mar. 4,
1903, p.
184.

4. All stocks of goods, wares, merchandise, the assessment to be on the average amount on hand during the preceding year, but the amount so assessed shall in no case be less than the capital actually employed in the business, and this shall include all goods, wares, and merchandise kept on plantations, or elsewhere, or by railroad companies or manufacturing companies, or other associations, companies, or persons for sale or to be dealt out to laborers or employes for profit or on account of their wages, and shall include all goods, wares, and merchandise offered for sale by any person commencing business subsequently to the first day of October of a current year, but in such case the tax shall be apportioned according to the date at which the business shall be commenced, so that if commenced after the first day of January, the tax shall be three-fourths of the tax for the whole year; if commenced after the first day of April, the tax shall be one-half of the tax for the whole year; provided, that the assessment herein provided shall not include products raised on the farms in the hands of the original producers. If the person, association, or corporation carrying on such business shall fail to make return of the amount of stock as provided by law, or if the assessor is not satisfied with the return made, the assessor, in order to make proper assessment, may examine the insurance effected by such person, association, or corporation upon the stock so to be assessed, and shall have a right to demand a copy of the last inventory made of such stock of goods, and may also by inquiry of persons believed to have knowledge of the subject inform himself of the probable average amount of such stock, and from such information he may assess the same upon the best judgment he can form.

Genesis as to taxation upon salaries, incomes, profits, etc.—Cap. City Co. v. Montgomery Co., 117 Ala. 303 (23 So. 970).

As amend-
ed, Mar. 4,
1903, p.
186.

5. All household furniture, libraries, jewelry, plate, and silverware, ornaments and articles of taste, pianos and other musical instruments, paintings, clocks, gold, silver, and other watches, and gold and other safety chains; all wagons and other vehicles; all motor cars, automobiles, and bicycles; all typewriters, all cash registers, all phonographs, and all machines of like character; all iron safes; all store fixtures; all office furniture and fixtures; all mechanical tools and farming implements; all dirk and bowie knives, swords, canes, pistols,

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

and guns; all cattle, horses, mules, studs, jacks, and jennets; all hogs, sheep, and goats.

Solvent credits taxable at owner's residence.—*Boyd v. Selma*, 96 Ala. 144 (11 So. 393).

6. All money hoarded, whether in the custody of the owner or on deposit in bank, or elsewhere in this state, or in another state, subject to check, draft, or order; or in any safety deposit box, safe, or vault, or elsewhere.

7. A. No mortgage, deed of trust, contract of conditional sales, or other instrument in the nature of a mortgage, which is given to secure the payment of any debt which such mortgage, deed of trust, contract of conditional sale, or other instrument of like character, shall be executed so as to convey real property or any interest in real property or personal property which is situated within this state, shall be received for record unless the following privilege taxes shall have been paid upon such instrument before the same shall be offered for record, to wit: Upon all such instruments which are executed to secure any indebtedness which shall not exceed one hundred dollars, there shall be paid the sum of fifteen cents, and upon all such instruments, which shall be executed to secure an indebtedness of more than one hundred dollars there shall be paid the sum of fifteen cents for each one hundred dollars of said indebtedness or portion thereof, which is secured by said mortgage, deed of trust, contract of condition of sale, or other instrument of like character, to be paid for by the lender.

As amended, Mar. 7, 1907, p. 403, § 1.

Effect of act of 1903, p. 227.—*Barnes v. Moragne*, 145 Ala. 313 (41 So. 947). Solvent credits subject to taxation.—*Ala. Min. Land Co. v. State*, 126 Ala. 90 (23 So. 668).

B. Upon filing for record of such mortgage, deed of trust, contract of conditional sale, or other instrument of like character, the person to whom the same shall be made payable, or his agent, shall present the said instrument to the judge of probate of the county within which the property conveyed thereby or any part thereof is situated, and shall pay to the probate judge the amount of the tax required under this subdivision to be paid upon such mortgage, deed of trust, contract of conditional sale, or other instrument of like character, and upon such payment the probate judge or his clerk shall certify on said mortgage, deed of trust, contract of conditional sale, or other instrument of like character, the fact that the said tax has been paid, and when so certified by the probate judge or his clerk, such instrument shall be admitted to record in any county wherein any of the property mentioned in said

Poll Tax ; Subjects, Rates, Maturity and Lien of Taxes.

instrument is situated, without the payment of any further tax thereon, except the fee of the probate judge for recording such instrument, and such certificate of the probate judge shall be recorded by the said probate judge when such instrument is recorded. The tax herein provided for shall be paid upon all contracts for the sale of real or personal property, whether the same be in the nature of a conditional sale or a bond for title, and no such contract shall be received for record until such tax shall have been paid.

C. When the time for the payment of the indebtedness secured by any such mortgage, deed of trust, contract of conditional sale, or other instrument in the nature of a mortgage is extended or renewed, and the extension or renewal contract is offered for record, the tax required in this subdivision shall be paid on the amount of the indebtedness so extended or renewed; and the same shall be governed in all respects by the provisions of this subdivision.

D. There shall be no ad valorem tax collected upon any such instrument, or the debts secured thereby, which shall have paid the tax prescribed by this subdivision, either state, county, or municipal.

E. Of the taxes collected by the probate judge under this subdivision, there shall be paid to the county treasurer of the county in which such taxes are collected, one-third of the amount collected by him, to be accounted for by him, and the remaining two-thirds of said amount collected to the state treasurer. The probate judge shall receive five per cent of the amount collected by him as compensation for his services in collecting said money and certifying said instrument, said five per cent to be retained by him out of the moneys collected by him under this subdivision; but when the property described in said instrument is situated in different counties within this state, then the probate judge who collects said taxes shall pay over the amount due the county treasurer to the county treasurer of each of the different counties in which said property is situated an amount of said taxes that will be in proportion to the value of the property therein as compared with the value of the whole property within this state described in said instrument.

G. If any part of the property embraced or described in any instrument which is required under this subdivision to pay a record privilege tax is located without this state, the indebtedness upon which the tax shall be paid for the privilege of recording such instrument shall be that proportion of the indebtedness secured by the instrument which the value of the property located in this state bears to the value of the

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

whole property described in the instrument. The state board of compromise may ascertain the value of the whole property, and of that part of it which is located within this state, for the purpose of ascertaining the amount of the indebtedness upon which said tax shall be paid. And the value of that part of the property located within this state, and the amount of the indebtedness upon which such tax shall be paid, shall be ascertained in the following manner: First, the owner of any such instrument, or his agent or attorney, may petition the state board of compromise to ascertain the value of the whole property, and of that part of it which is located within this state, and the amount of the indebtedness upon which such tax shall be paid, and said board of compromise, after hearing such evidence as may be offered, shall fix and determine the value of that part of the property located within this state and the amount of the indebtedness upon which the tax shall be paid, and shall indorse its findings on such instrument, and upon the presentation of said instrument, with such indorsement, to the probate judge of the county in which any part of the property is located, such indorsement, upon payment of the tax upon the amount of such indebtedness as so ascertained by said board of compromise and of the recording fees of the probate judge; or, second, the owner of any such instrument, or his agent or attorney, may have such instrument recorded by paying to the probate judge of the county in which the instrument is offered for record, the privilege tax on the entire amount of the indebtedness secured by such instrument; and may thereupon present his petition to the state board of compromise within thirty days after said instrument is recorded, and it shall be the duty of such board to ascertain the value of the whole property and of that part of it located within this state, and to fix and determine the amount of the indebtedness upon which the tax shall be paid, and said board shall thereupon ascertain such valuation and fix and determine such indebtedness, and shall order the probate judge to refund the excess of privilege tax collected by him, and the probate judge shall comply with such order; and the tax paid on the entire amount of such indebtedness shall be held by the probate judge until the board of compromise determines the amount of the indebtedness upon which such tax shall be paid.

Distinction between levy and assessment of taxes; constitutional inhibition applies to former, not to latter.—*Maguire v. Board of Rev.*, 71 Ala. 402. National banks taxed only as authorized by congress; taxation of national banks must be substantially the same as applied to other moneyed capital generally.—*Pollard v. State*, 65 Ala. 628, overruling *McIver v. Robinson*, 53 Ala. 456; *Sumter Co. v. Bank of Gainesville*, 62 Ala. 464. (See 71 Ala. 401, which seems to conflict with *Pollard's case*.) The real estate owned by

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

national banks is taxable.—Pollard v. State, 65 Ala. 628. Capital stock is the amount fixed to be paid in as a trust fund for the corporation; capital stock of a corporation invested in another corporation is not exempt from taxation in both companies.—Commercial Fire Ins. Co. v. Montgomery County, 99 Ala. 1 (14 So. 490). Shareholders of bank stock and individual owners of other property are upon same footing as to deducting indebtedness.—Jefferson Co. Bank v. Hewitt, 112 Ala. 546 (20 So. 926). Taxes upon debts secured by mortgage on land and the land itself are both taxable.—Ib. State and national banks on equal footing as to deducting indebtedness from value of property, from taxation.—State Bank v. Board of Rev., 91 Ala. 217 (8 So. 852). No attempt prior to Dec. 8, 1880 to tax shares of national banks. Discrimination as to power to tax capital stock of national banks or shares therein.—Maguire v. Board of Revenue, 71 Ala. 402.

H. Any renewal or extension of the time for payment of the indebtedness secured by any such instrument shall be governed in all respects by the provisions of this section.

Purifoy v. Lamar, 112 Ala. 123 (20 So. 975).

I. All money lent, solvent credits, or credits of value, except such as are secured by mortgage, deed of trust, or written contract of conditional sale, upon which a tax imposed by law has been paid.

Money lent, solvent credits, how subject to taxation.—Barnes v. Moragne, 145 Ala. 313 (41 So. 947).

J. All money employed in the business of advancing or lending on any kind of chattels, choses in action, or personal property, or used in buying or discounting notes, bonds, or bills of exchange.

K. All moneyed capital used in any business, which comes in competition with the business of national banks.

Tax on capital stock is on property and not on its franchise.—State v. Stonewall Co., 89 Ala. 335 (7 So. 753).

As amended, Mar. 7, 1907, p. 403, § 2.

8. Every share of any incorporated bank or banking association incorporated under the laws of this state, or any other state, or of the United States, to be assessed and collected in the county, city, town, or village where any such bank is located, and to be assessed at its actual market value to the person in whose name such share stands on the books of such bank, and not to the bank or corporation. The president or cashier of every such bank or banking association shall make out and return under oath to the assessor of the county in which the bank is located, a list showing the total number of shares of the capital stock of such bank, the full name and residence of every shareholder as far as known, the actual market value of such shares and the par value thereof, the date of the last sale of stock in such bank, with the names of the seller and purchaser thereof, the price paid for same, the annual dividend declared upon the stock of such bank for the

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

last three years, the value of the shares as shown by the books of the corporation and by the last report of the officers to the shareholders, the amount of the surplus and the amount of the undivided profits not included in the surplus, and such president and cashier shall, at the same time, return to the assessor of the county a sworn statement of all real estate owned by the bank situated in this state, and the value thereof as assessed for taxation the same year, and thereupon the assessor shall, after passing upon such assessment, deduct from the amount or sum at which the whole of the shares are assessed the amount or sum at which the real estate situated in the state and belonging to such bank is assessed for taxation; and the residue of values remaining after such deduction shall be the assessed value of the whole of such shares, and such residue, divided by the whole number of shares, shall constitute the value of each share for taxation, and the bank shall pay for the shareholder the tax assessed against such shares, and no other deduction shall be made from the value of such shares except the value of the real estate situated in this state, and owned by said bank as assessed for taxation the same year. And all tax assessors, courts of county commissioners, boards of revenue, and all other courts, are prohibited from making any deductions from the value of such shares, except such assessed values of the real estate owned by such banks. It is the intent and meaning of this subdivision that the real estate of every such bank shall be assessed for taxation against the bank as other real estate in this state is assessed to the owners thereof, and that the bank shall pay the taxes thereon; and the shares shall be assessed for taxation against the shareholders at their actual market value after deducting therefrom the assessed value of the real estate of the bank, and that the bank shall pay for the shareholders respectively the tax so assessed against their shares. In arriving at the market value of the shares, there must be considered everything which gives them value, such as the franchise, the authorized capital, and the assets of the bank, the real and personal property, the reserve fund and surplus, the undivided profits, and all other interests of the shareholders that would pass to a purchaser on a transfer of his stock; and except as herein expressly provided, no separate tax shall be levied upon these elements of value, or any of them. It shall be no ground of objection to such assessment of shares that it is entered upon the assessment book in the corporate name of the bank.

9. Every share of any corporation except banks or banking associations and building and loan associations shall be as-

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

As amended, Mar. 7, 1907, p. 408, § 8.

assessed and collected in the county wherein such corporation has its home or chief office in this state, and shall be assessed at its actual market value, to the person in whose name such shares stand on the books of the corporation, and not to the corporation. The president or chief officer of every such corporation shall make out and return under oath to the assessor of the county in which the chief or home office of the corporation is located, a list showing the total number of such shares of capital stock of such corporation and the par value thereof, and the full name and residence of each shareholder as far as known, the actual market value of such shares and the par value thereof, the date of the last sale of stock in such corporation, with the name of the seller and the purchaser, and the price paid for the same, and the annual dividend declared on the stock of such corporation for the last three years, the value of the shares as shown by the books of the corporation, and by the last report of the officers to the shareholders, the amount of the surplus; and the amount of the undivided profits not included in the surplus, and such president or chief officer shall at the same time return to the assessor a sworn statement of all taxable property, real and personal, owned by such corporation, situated in the state, and the value thereof as returned to the tax assessor for taxation the same year, and the assessor, after passing upon such assessments, shall deduct from the aggregate amount or sum at which the whole of the shares are assessed the aggregate amount or sum at which the real and personal property of the corporation is returned to the tax assessors for taxation, owned by such corporation, and the residue of value remaining after such deduction shall be the assessed value of the whole of such shares, and such residue, divided by the whole number of shares, shall constitute the value of each share for taxation, and the corporation shall pay for the shareholders the tax assessed against his shares, and the amount so paid for any shareholder shall be a lien on any interest which such shareholder may have in any property owned by the corporation. If the aggregate value of the shares does not exceed the aggregate value of the real and personal property of the corporation as returned to the tax assessor for taxation, then no tax shall be demanded or collected on the shares; and no other deduction shall be made from the aggregate amount or sum at which the real and personal property of the corporation is returned to the tax assessor for taxation than is herein specifically provided for. It shall be no ground for objection to such assessment of shares that the same is entered upon the assessment books in the name of the corpora-

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

tion. In arriving at the value of the shares of stock of a corporation organized under the laws of Alabama for the purpose of conducting a fire insurance business for assessment, there shall be deducted from the value of such shares, in addition to the assessed values of its property, the amount of its bonds of the State of Alabama, any county or municipality thereof, and of the United States, held by such fire insurance corporation at the time of such assessment, which was held during all the six months preceding such assessment; provided no shareholder of any corporation who shall pay a tax on franchise or intangible property shall be liable to the taxes specified in this subdivision as to the same property.

For purpose of taxation, chattels may acquire situs different from owner's residence.—Trammell v. Connor, 91 Ala. 398. (8 So. 495); Boyd v. Selma, 96 Ala. 144 (11 So. 393); Nat. Dredging Co. v. State, 99 Ala. 462 (12 So. 720).

10. All real and personal property of water companies, including the pumping stations, reservoirs, stand-pipes, towers, pipe lines, gates, valves, tunnels, canals, and dams used in the business of supplying water to consumers for pay; all real and personal property of electric light and power and gaslight companies, including all machinery, engines, dynamos, wires, poles, pipe lines, and appliances of every nature and description used in connection therewith; all the real and personal property of every furnace, rolling mill, mine, quarry, or manufacturing establishment, including all machinery, engines, and appliances of every nature used in the business; all dams across rivers and creeks.

11. All investments in bonds, except bonds of the United States and of this state, and such other bonds as are not by law taxable; but all capital invested in bonds or currency which are exempt from taxation shall be liable to be taxed under this section, should such capital, at any time during the year, be reconverted into money, bonds, or property which is taxable, unless it is made to appear that the money, bonds, or property into which such reconversion may be made has been assessed for taxes for such year.

12. The roadbed, track, and other property, real and personal, of railroads, and all tramroads, pole-roads, canals, ditches, and channels used for transporting lumber, timber, logs, or other valuable commodities of commerce, which are not taxed as improvements on the land, or plant, or main property of the owner of such tramroads, pole-roads, canals, ditches, or channels.

13. All dividends declared or earned, and not divided, by corporations doing business in this state.

14. All other property, real and personal, not otherwise spec-

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

ified herein, including cotton, pig iron, manufactured goods, and other things of value.

(Aikin's Digest, p. 408, §§ 5, 7, 9; Clay's Digest, p. 559, §§ 9, 11; p. 561, § 24; p. 562, § 25.) All property need not be taxed, but if imposed on any species, all belonging to that species must be taxed at same rate, and the rate must be in proportion to the value.—*State Bank v. Board of Rev.*, 91 Ala. 217 (8 So. 852). Leasehold interest of turpentine privileges not subject to taxation.—*Ashe-Carson Co. v. State*, 138 Ala., 108 (35 So. 38); *Kennedy Co. v. Sloss-Sheffield Co.*, 137 Ala. 401 (34 So. 372). Right to cut and remove timber from land is subject to taxation.—*Freeman v. State*, 115 Ala. 208 (22 So. 560); *Sullivan v. State*, 117 Ala. 214 (23 So. 678); *Ashe-Carson Co. v. State*, 138 Ala. 108 (35 So. 38). In the absence of covenant, the lessee for years is not liable for taxes.—*Ashe-Carson Co. v. State*, 138 Ala. 108 (35 So. 38). As to taxation upon gross receipts, business or occupation, see *Capital City Co. v. Montgomery Co.*, 117 Ala. 303.

Sep. 30,
1903, p.
296, § 3.

2083. Enumeration of subjects of taxation not to interfere with other exemptions from taxation.—The enumeration of subjects of taxation in the preceding section, as amended, shall not be construed so as to interfere in any way with the exemptions from taxation provided by law.

2084. (3912) (454) Other subjects of taxation and rates thereon.—There shall also be assessed by the assessor in each county for taxation the following subjects at the following rates:

1. On the gross amount of sales at auction, made in or during the tax year preceding the assessment of goods, wares, and merchandise owned by nonresidents, each auctioneer shall be assessed and shall pay a tax of one-fourth of one per cent; and a like tax on all sales made by him of property owned by citizens of this state, which have been imported into this state and sold at auction before the same has been assessed for taxes as other property; but on sales of goods, wares, and merchandise and fruits, by cargo, the rate of taxation shall be one-eighth of one per cent.

As amend-
ed, Mar. 7,
1907, p.
408, § 4.

2. On the gross amount of commission, or sums charged and received, during each tax year, by any factor, broker, commission merchant, auctioneer, or dealer in any other kind of property, in buying or selling, or for any other act in the course of their business, and for a commission or compensation, by bale, sack, package, article, or otherwise, and on the gross receipts, during each tax year, of all grain elevators, river landings, wharves, wharf boats, stock-yards, whether attached to livery stables or otherwise, at the same rate that property is taxed, but this shall not apply to banks and building and loan associations otherwise taxed.

3. On the gross income of all gasworks, waterworks, electric light companies, telephone companies, street railways, toll bridges, and ferries, and also all canals, ditches, channels,

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

passes, tram roads, and poll roads used for transporting timber or other valuable commodities or commerce at the rate that property is taxed; provided, that no corporation which pays a tax on franchises or intangible property shall be liable for the taxes specified in this subdivision, as to the same property or rights.

(Feb. 10, 1881, p. 122, § 6.) The rate of ad valorem tax has not reference to specific occupation or privilege taxes; tax on gross amount of sales is an occupation or privilege tax.—*Goldsmith v. Mayor and Aldermen of Huntsville*, 120 Ala. 182 (24 So. 509). Constitutions are not enabling provisions as to taxation, but are limitations. Legislature is plenary when not inhibited by constitution.—*Capital City Co. v. Montgomery County*, 117 Ala. 363 (23 So. 970). Legislature unlimited power as to occupation and privilege taxes.—*Ib.* Privilege or license tax upon express companies; state tax in lieu of all other taxes, thereby repeals provisions of municipal charters.—*Douglass v. Anniston*, 104 Ala. 291 (16 So. 133).

2085. (3913) Telegraph and telephone companies to pay privilege tax to state treasurer.—Each telegraph or long-distance telephone company doing business between points wholly within this state, and without reference to its interstate commerce or governmental business, shall pay, in advance, on the first day of January of each year, to the state treasurer, a privilege tax based on the mileage of the telegraph or long-distance telephone line operated by it in this state, as follows: Each telegraph company whose lines within the state do not exceed one hundred and fifty miles, shall pay at the rate of one dollar per mile; each telegraph company whose lines within the state exceed one hundred and fifty miles, shall pay five hundred dollars, together with one dollar for each mile of such lines; and each long-distance telephone company whose lines within the state do not exceed two hundred miles, shall pay at the rate of fifty cents per mile, and each long-distance telephone company whose lines within the state exceed two hundred miles, shall pay two hundred and fifty dollars; and no telegraph company which has paid the privilege tax herein required shall be liable to pay any additional privilege tax or other tax in this state, except licenses required by cities and towns, and except upon its real estate, fixtures, and other local property, which shall be subject to taxation as other property in the state; and no long-distance telephone company which has paid the privilege tax herein required shall be liable to pay any additional privilege tax in this state, except licenses required by cities and towns, but the real estate, fixtures, and other local property of long-distance telephone companies shall be subject to taxation as other property in this state. The payment of such privilege tax to the state treasurer shall be accompanied by a sworn report to the state auditor, showing the number of miles of telegraph or long-distance telephone lines operated by such

As amended,
Mar. 5,
1901, p.
216, § 8.

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

company in this state; and in default of the payment of such tax or the making of such report for sixty days after the first day of January, a penalty of double the amount of such tax shall be imposed upon and collected of such defaulting company.

(Feb. 28, 1889, p. 89.)

As amended,
Mar. 4,
1908, p.
189.
(r.c.c.)

2086. (3914). Express companies to pay privilege tax to state treasurer.—There shall be levied and collected from every express company doing an express business between points wholly within this state, and without reference to its interstate business, in this state, whether incorporated under the laws of this state or any other state, or whether incorporated at all, or not, a license or privilege tax of four thousand dollars, which shall be annually paid to the treasurer of said state by said company on or before the fifteenth day of January of each year. In addition to said amount paid to the state, as aforesaid, for state purposes, there may be levied and collected by the several cities of the state from said express company or companies, for the privilege of doing business within the municipal limits of said cities, a privilege or license tax to be computed and based on the population of said cities, as fixed by the federal census of 1900, as follows, to wit:

In municipalities having a population of five hundred people, or less than this number, two dollars and fifty cents per annum.

In municipalities having a population of five hundred or over, and not exceeding one thousand, fifteen dollars per annum.

In municipalities having a population of one thousand and not exceeding two thousand, twenty-five dollars per annum.

In municipalities having a population of two thousand and not exceeding three thousand, thirty-five dollars per annum.

In municipalities having a population of three thousand and not exceeding four thousand, forty-five dollars per annum.

In municipalities having a population of four thousand and not exceeding five thousand, fifty dollars per annum.

In municipalities having a population of five thousand and not exceeding ten thousand, seventy-five dollars per annum.

In municipalities having a population of ten thousand and not exceeding fifteen thousand, one hundred dollars per annum.

In municipalities having a population of fifteen thousand and not exceeding twenty thousand, one hundred and twenty-five dollars per annum.

In municipalities having a population of twenty thousand and not exceeding twenty-five thousand, one hundred and seventy-five dollars per annum.

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

In municipalities having a population of twenty-five thousand and not exceeding thirty thousand, two hundred and fifty dollars per annum.

In municipalities having a population of over thirty thousand, five hundred dollars per annum.

The license or privilege taxes above provided which shall be paid to the state and several cities, according to population as above said, shall be in lieu of all other license or privilege taxes required of said express companies in said state, by any authority thereof, and shall be in lieu of all other taxes of whatever nature except an ad valorem tax upon the tangible and intangible property of said company located in said state.

(Feb. 18, 1893, p. 693.) Municipal tax on express companies held unconstitutional in that it conflicted with general law.—*Southern Ex. Co. v. Tuscaloosa*, 132 Ala. 326 (31 So. 460). (This was evidently an oversight, as the two statutes were not conflicting within the meaning of these constitutional provisions.)—*Douglass v. Anniston*, 104 Ala. 291 (16 So. 133).

2087. (3915) Sleeping car companies to pay privilege license and franchise tax to state treasurer.—Each sleeping car company and each person, firm, or corporation engaged in the business of operating or running sleeping cars (except railroad companies operating their own sleeping cars), and doing business in this state, shall each pay in advance on the first day of January of each year to the state treasurer the sum of three thousand dollars as and for license privilege and franchise taxes, and in full satisfaction for all taxes imposed on the sleeping car business of such person or corporation, and upon the property and intangible assets used in such business, and no company or person required in this section to pay said taxes to the state shall be required by any municipality in which it does business by agent to pay any sum as a license or privilege tax greater than ten dollars for any such municipality which may be authorized by law to collect a privilege or license tax from such company or persons, provided said sum shall also be paid for the year 1907.

As amended, Aug. 2, 1907, p. 501, § 1.

(Feb. 16, 1893, p. 616.)

2088. (3916) Building and loan associations to pay privilege and property tax.—Each building and loan association organized under the laws of this state, or any other state or county, doing business in this state, shall pay in advance, on the first day of each year, to the state treasurer, a privilege tax of one dollar for each one thousand dollars of the first one hundred thousand dollars paid in on its capital stock; and fifty cents for each one thousand dollars paid in on its capital stock over one hundred thousand dollars, but shall not be required to pay taxes upon its mortgages on real estate. And every such asso-

As amended, Mar. 5, 1901, p. 218, § 10. (r.c.c.)

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

ciation, foreign or domestic, shall also be assessed for taxation and shall pay taxes upon its office furniture and real estate in this state.

(Feb. 18, 1897, p. 1489, § 40.)

2089. (3917) Insurance companies to pay tax on gross receipts.—Every insurance company, domestic or foreign, doing business in this state, which files the statement as required by section 4556 of this Code, shall at the same time pay to the insurance commissioner the following amounts, that is to say: Each fire insurance company shall pay one and one-half dollars on each one hundred dollars of the gross premiums received by it in this state, and every other insurance company shall pay two dollars on each one hundred dollars of the gross premiums so received in this state during the year ending on the thirty-first of December next preceding as a tax for doing business in this state, and no credit or deduction of any kind shall be allowed or made on account of the cost of reinsurance taken by such company or any company not authorized to do business in this state. But the provisions of this section do not apply to any secret or benevolent society, such as Masons, Odd Fellows, Knights of Pythias, Knights of Honor, Ancient Order of United Workmen, or like orders. Any insurance company failing or refusing to make returns, as required by law, or failing or refusing to pay the tax herein levied, shall forever be debarred from doing business in this state, and shall be liable to a penalty in double the amount of such tax.

2090. (3918) (456) When foreign insurance company considered as doing business in state; taxes against.—When any person shall do or perform any of the acts, the doing or performing of which by him for any insurance company not organized under, or incorporated by, the laws of this state, renders him the agent of such company under the provisions of this Code, such company shall be held to be doing business in this state, and shall be subject to taxation for state, county, and municipal purposes, in this state; and such person so doing or performing any of such acts shall be personally liable for such taxes.

(Feb. 10, 1881, p. 122, § 17.) All property need not be taxed, but if a species is taxed, all of the species must be taxed at the same rate.—*State Bank v. Board of Rev.*, 91 Ala. 217 (8 So. 852).

2091. (3919) (457) When taxes become due, and when delinquent.—All taxes, unless otherwise directed, shall become due and payable on the first day of October in each year, and shall become delinquent if not paid before the first day of January

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes.

succeeding, except in cases when parties are about to remove from the county.

(Feb. 18, 1895, p. 1192, § 38; Feb. 10, 1881, p. 122, § 4.)—*Swann v. State*, 77 Ala. 545.

2092. (3920) (458) Property brought into state after first of October; when taxable.—All property brought into the state after the first day of October, and before the assessor has completed his assessment, except property that may be brought into the state by a bona fide citizen of the state, purchased with money held on the first day of October, which money has been assessed for taxation that year, shall be subject to taxation the same as if it had been held or owned in the state on the first day of October.

(*Aikin's Digest*, p. 411, § 15; *Clay's Digest*, p. 563 § 31; Feb. 18, 1891, p. 1275; Feb. 17, 1885, p. 21, § 2.) The actual situs of property and not the domicile of the owner, determines situs of taxation; floating property, such as a tug boat, not exempt from taxation.—*Nat. Dredging Co. v. State*, 99 Ala. 462 (12 So. 720).

2093. (3921) (459) Lien of state and county for taxes.—From and after the first day of October of each year, the state shall have a prior lien upon each and every piece or parcel of property, real or personal, for the payment of the taxes which may be assessed against the owner, or upon such property, during that year, for the use of the state; and the county shall have a like lien thereon for the payment of the taxes which may be assessed against such owner, or upon such property, during that year, for the use of the county; and these liens shall exist as to all lands bid in by the state at tax sales for the annual taxes thereafter assessed on the value of the property so purchased, in the event of the tax title failing.

(*Aikin's Digest*, p. 414, § 35; *Clay's Digest*, p. 563, § 30; Feb. 17, 1885, p. 21, § 136.) Lien exists as to purchaser for the particular year for which the taxes are assessed; lien for taxes paid for purchase at tax sale does not arise until after judgment in action of ejectment.—*City of Sheffield v. Tradesmen's Bank*, 131 Ala. 185 (32 So. 598). Shares of stock in corporation not liable to levy and sale for tax under former statute.—*Kennedy v. Mary Lee Co.*, 93 Ala. 494 (9 So. 608). (See § 2182 [4017] of the Code.) Lien formerly attached on first day of January and held good against any subsequent alienation.—*Driggers v. Cassidy*, 71 Ala. 529; *Kuhl v. Long*, 102 Ala. 563 (15 So. 267; *Swann v. State*, 77 Ala. 545. Redemption by delinquent payee; lands again subject to sale and lien; when purchased at tax sale made in interest of delinquent owner.—*Winter v. City of Montgomery*, 101 Ala. 649 (14 So. 659). Non-taxable property and after-acquired property subject to lien.—*Solomon v. Willis*, 89 Ala. 596 (7 So. 160). Sale of land for taxes destroys lien.—*Thorington v. City of Montgomery*, 88 Ala. 548 (7 So. 363). Personal property assessed for taxes liable to lien as against party assessing, though wrongfully assessed.—*Rodgers v. Gaines*, 73 Ala. 218.

Tax Assessors; Election, Qualification and Compensation; Deputies.

ARTICLE 4.

TAX ASSESSORS; ELECTION, QUALIFICATION AND COMPENSATION; DEPUTIES.
2094-2101.

SECTION.

2094. Tax assessor; election and term of office.

2095. Official bond.

2096. Oath of office.

2097. Commissions of tax assessor.

2098. No commissions on erroneous assessments.

SECTION.

2099. Fees of assessor.

2100. Appointment of deputies; liability for acts of deputies.

2101. Tax assessor to have assessment blanks printed; taxpayer entitled to copies.

As amend-
ed, Oct. 1,
1903, p.
370.

2094. (3922) (460) Tax assessor; election and term of office.—There shall be elected, at the time, in the manner, and for the term provided by law, a tax assessor for each county in the state, who shall perform such duties as are, or may be, prescribed by law, and whose term of office shall begin on the first day of August, next after his election.

(Aikin's Digest, p. 36, § 1; Feb. 17, 1885, p. 21, § 19).—Toulmin's Digest, pp. 749 et seq.

2095. (3923) (461) Official bond.—Before entering upon the discharge of the duties of his office, the tax assessor must execute in duplicate a bond in the sum of two thousand dollars, payable to the State of Alabama, with sufficient sureties, to be approved by the judge of probate of his county, and conditioned faithfully to discharge the duties of his office which are, or may be, required by law during the time he continues therein, or discharges any of the duties thereof. One of such duplicates must be filed and recorded in the office of the judge of probate, and the other must be filed in the office of the state auditor, on or before July first, next after his election.

(Aikin's Digest, p. 36, § 6; Feb. 17, 1885, p. 21, § 20.)

2096. (3924) (462) Oath of office.—He shall also, before entering upon the discharge of the duties of his office, file in office of the judge of probate of his county an oath in writing that he will faithfully and diligently discharge all the duties which are, or may be, imposed upon him by law; and such oath must also be recorded.

(Aikin's Digest, p. 36, § 7; Feb. 17, 1885, p. 21, § 21.)

(r.c.c.)

2097. (3925) Commission of tax assessor.—The tax assessor shall be entitled to receive from the tax collector out of the first moneys collected for the state, giving him duplicate receipts therefor, one of which receipts shall be forwarded to the state auditor by the tax collector, the following commissions on the state taxes, whether general or special, assessed by

Tax Assessors; Election, Qualification and Compensation; Deputies.

him (but not on each separately), to wit: In counties where the state taxes assessed do not exceed twelve thousand dollars, the rate of commission shall be eight per cent on the first thousand, four per cent on the second thousand, and two per cent on the remainder. In counties where the state taxes assessed exceed twelve thousand dollars, the commission shall be the same up to twelve thousand dollars, and on all above twelve thousand dollars, one and one-half per cent up to sixty thousand dollars, and one per cent on the remainder. He shall also be entitled to receive from the tax collector the same rate of commissions on the amount of county taxes, whether general or special (but not on each separately), regularly assessed, carried up or extended on the assessment book, giving duplicate receipts to the tax collector for all amounts so paid him. He shall receive five per cent of the amount of general state taxes upon property assessed by him which has escaped taxation in the previous year, such previous assessment not having been made while he was tax assessor.

(Feb. 18, 1897, p. 1489, § 2.)

2098. (3926) No commissions on erroneous assessments.—He shall not receive commissions on errors made in assessments, on abatements or deductions from assessments allowed to the taxpayer, nor shall he, after the abstract book has been turned over to the tax collector, receive commissions on any assessment to which an objection by the taxpayer, regularly entered, may then be pending, until such objection has been disposed of and the proper assessment ascertained and determined.

2099. (3927) Fees of assessor.—For making the demand on the taxpayer for his list of assessment, and for each assessment of property to “owner unknown,” to be charged to the taxpayer or property assessed, and collected with the taxes, the assessor shall be entitled to fifty cents, to be entered upon the assessment; but the assessor shall be entitled to only one demand fee against each taxpayer. He shall be entitled to a fee of twenty-five cents for each notice issued from the court of county commissioners or other court of like jurisdiction, and served or mailed by him, the same to be charged to the taxpayer if the case made against such taxpayer be sustained, and to be added to such taxpayer’s assesment; but in cases where the state fails before the court of county commissioners he shall receive no fees. For serving each subpoena for state witnesses, issued by order of the court of county commissioners or other court of like jurisdiction, the tax assessor shall be entitled to receive twenty-five cents, to be taxed against the defendant and collected with the taxes, if the state prevails. (r.c.c.)

Assessments; Duties of Taxpayer; Filing Lists, Books, Etc.

2100. (3928) (467) Appointment of deputies; liability for acts of deputies.—The tax assessor is authorized to appoint deputies, and the acts of such deputies shall be recognized as his acts, and he shall be responsible for any loss sustained by any taxpayer, or by the state or county, by reason of any unlawful act or assessment done or made by any of such deputies. Such deputies shall receive no compensation for their services out of the state or county revenue.

2101. (3929) Tax assessor to have assessment blanks printed; taxpayer entitled to copies.—It is the duty of the assessor to have printed, at the expense of the county, a sufficient number of assessment blanks in the form prepared and furnished by the state auditor; and, upon request of any taxpayer, the assessor shall furnish him with a copy or copies for use in rendering his assessment list.

ARTICLE 5.

ASSESSMENTS, WHEN AND HOW MADE; DUTIES OF TAXPAYER, ASSESSOR AND APPRAISERS; FILING LISTS AND BOOKS OF ASSESSMENT AND NOTICE THEREOF; WHEN ASSESSOR SUSPENDED. 2102-2132.

SECTION.

- 2102. Commencement and completion of assessment; supplemental assessment.
- 2103. Appointments by assessor and notice thereof; effect of failure to give notice or attend.
- 2104. Taxpayer to attend appointment and return list of his property.
- 2105. Oath to be administered to taxpayer.
- 2106. Assessor to interrogate taxpayer as to item and details of property.
- 2107. Demand of taxpayers failing to meet assessor at appointments.
- 2108. Full statement of subjects of taxation required of taxpayers.
- 2109. When sworn list may be sent in by another person.
- 2110. When assessment of property made on information.
- 2111. Assessor to fix value of each item of property.
- 2112. How values estimated; minerals and timber, when assessed separately.
- 2113. How real estate may be described.

SECTION.

- 2114. By whom property should be listed.
- 2115. Assessment of property and receipts of telephone companies; penalty.
- 2116. When assessment of receipts made on information; penalty.
- 2117. Assessment made on information after February first; five per cent penalty.
- 2118. Assessments to "owner unknown;" how made; lands in one body not to be split up to multiply fees.
- 2119. Assessment of escaped taxes.
- 2120. Form and contents of assessment list; assessor to make plat book, etc.
- 2121. Assessor to deliver assessment lists to court of county commissioners, etc.
- 2122. Condensed statement of assessment and polls entered in books by assessor.
- 2123. Books and lists to be delivered to judge of probate.
- 2124. Judge of probate to examine book, and if correct, give duplicate receipts therefor; copy to be sent auditor.

Assessments; Duties of Taxpayer; Filing Lists, Books, Etc.

SECTION.

2125. Duty when taxpayer about to leave county.
2126. Duty to compute and enter county taxes and complete assessment book.
2127. Land book to be prepared by assessor.
2128. Form of book and entries to be made.

SECTION.

2129. Lands to be listed each year.
2130. Land book to be delivered to judge of probate by first Monday in May.
2131. Judge of probate to receipt for land book, and certify fact to auditor.
2132. Compensation of assessor for making land book.

2102. (3930) Commencement and completion of assessment; supplemental assessment.—The assessment of taxes by the tax assessor must commence on the first day of October in every year, and shall be finished by him by the first day of February following; but the assessor may be allowed until the first Monday in May in each year to make a supplemental assessment upon property which he may have failed to assess prior to the first day of February; and such supplemental assessment he must enter in the original book of assessment as any other assessment; and the judge of probate shall embrace such assessment in his abstracts for the auditor and collector.

(Aikin's Digest, p. 411, §§ 15-17; Clay's Digest, p. 563 § 32; Feb. 18, 1895, p. 1192, § 16.) Original statute regulating taxes and revenue, from 1809 to 1823.—Toulmin's Digest, pp. 733 et seq.

2103. (3931) Appointments by assessor and notice thereof; effect of failure to give notice or attend.—The assessor shall give at least twenty days' notice, by advertisement in a newspaper, if there be one published in the county, and by bill posted at five or more public places in each election precinct, of the time when and the place where he will attend to assess the taxes. He shall visit each precinct, and remain there one time from eight o'clock a.m. until four o'clock p.m. In towns other than county seats of five thousand inhabitants or more, he shall remain at the place of appointment for one month, and in places of one thousand inhabitants and not over five thousand inhabitants, he shall remain at the place of appointment for one week. Upon failure of the tax assessor to give the notice required by this section or to attend any appointment made by him in any precinct, he shall, after legal notice, fill new appointments or forfeit all claims to fees from such persons in such precincts as were disappointed by his non-attendance. In all counties having fifty thousand inhabitants or more, he shall keep his office open at the courthouse all the year round, and in all other counties he shall keep his office open at the courthouse from the first day of October until the first day of May following.

As amended, Dec. 16, 1896, p. 50, § 1. (r.c.c.)

(Aikin's Digest, p. 412, § 18; Clay's Digest, p. 564, § 33; Feb. 18, 1897, p. 1489, § 4.)

Assessments; Duties of Taxpayer; Filing Lists, Books, Etc.

2104. (3932) (470) Taxpayer to attend appointment and return list of his property.—It is the duty of every person liable to taxation in each election precinct to attend in person before the assessor, on the first day of the appointment in the precinct of the taxpayer's residence, and then and there render to the assessor, under oath, a full and complete list of all the property of which he was the owner, or in which he had any interest whatever, or of which he was trustee or agent, on the first day of October of that year.

Clay's Digest, p. 564, §§ 34, 35; Feb. 18, 1897, p. 1499, § 5; Feb. 17, 1885, p. 21, § 1.) Duty of tax assessor to assess taxes.—*Purifoy v. Lamar*, 112 Ala. 123 (20 So. 975). Whether resident or not, owner must render to assessor complete list of taxable items.—*Trammell v. Connor*, 91 Ala. 398 (8 So. 495); *Birmingham Min. Co. v. Smith*, 89 Ala. 305 (7 So. 634).

2105. (3933) (479) Oath to be administered to taxpayer.—The tax assessor or his deputy must orally administer the following oath to every taxpayer before receiving his return: "You do solemnly swear that you will true answers make to the lawful questions which I may put to you touching the return you are about to make, and that you will make a full and complete return of all the property owned by you, or in which you had any interest whatever, or of which you were trustee or agent, on the first day of October of the present tax year. So help you God."

(*Aikin's Digest*, p. 412, § 19; *Clay's Digest*, p. 564, § 34; Feb. 17, 1885, p. 21, § 5.) List or items of taxation sworn to; the value to be stated is the true market value in money.—*Birmingham Min. Co. v. Smith*, 89 Ala. 305 (7 So. 634).

2106. (3934) (480) Assessor to interrogate taxpayer as to items and details of property.—After administering the foregoing oath, the assessor shall particularly inquire of the said taxpayer as to the items and details of property and subjects of taxation, of which he may be supposed to be in possession, and for which he is liable to be taxed, and property exempt from taxation, in order that he may elicit from such taxpayer a complete statement of the whole amount and specific items of the property and subjects of taxation, with which he should be charged for purposes of assessment and taxation; and the same having been entered upon the proper assessment blank, the assessor shall require the taxpayer or his agent to make and subscribe to an oath, to be actually administered to him by the assessor or his deputy, that such list is a true and correct list of all real and personal property, effects, and choses in action, owned by such taxpayer, or in which he had any interest whatever, on the first day of October of that year, and a

Assessments; Duties of Taxpayer; Filing Lists, Books, Etc.

true answer to all questions lawfully propounded to him touching the same.

(Feb. 28, 1887, p. 3, § 1; Feb. 18, 1895, p. 1192, § 22; Feb. 17, 1885, p. 21, § 6.) Tax assessor not bound by valuation placed upon property by owner.—*Birmingham Min. Co. v. Smith*, 89 Ala. 305 (7 So. 634).

2107. (3935) (471) Demand of taxpayers failing to meet assessor at appointments.—After he shall have completed his appointments in each year, the assessor shall, in person or by deputy, make a demand upon such taxpayers as failed to meet him and return their lists at his appointments, wherever he may find them, for a list of their taxable property, and whenever unable to find them, he may leave a written demand at their residences, or places of business; or where such taxpayer is a nonresident of the county wherein such tax is to be paid, such demand may be made by letter addressed and mailed to such taxpayer's last known residence; and it shall be their duty to return such lists to him by the first day of February following, at his office or wherever he may be found.

(Clay's Digest, p. 564, § 37; Feb. 17, 1885, p. 21, § 23.)

2108. (3936) (473) Full statement of subjects of taxation required of taxpayers.—Every person of full age and of sound mind, and every firm and body corporate or politic shall, when legally called on by the assessor, forthwith make to him a full, true, and distinct statement of all the real and personal property, with a correct description thereof, of which he is the owner or holder, individually, or as guardian, parent, husband, trustee, administrator, executor, receiver, accounting officer, partner, agent, or factor, and including all moneys and credits so held or owned, or in deposit anywhere, on the first day of October preceding, except as herein otherwise prescribed.

(Feb. 17, 1885, p. 21, § 2.) Must show amount and extent of indebtedness on the first day of January.—*Ala. Min. Land Co. v. State*, 126 Ala. 90 (28 So. 668). Burden of proof on taxpayer to show indebtedness.—*Ib.*

2109. (3937) (474) When sworn list may be sent in by another person.—When a taxpayer resides out of the county, or, by reason of any infirmity or disability, is unable to attend the appointments of the assessor, or is a woman, such taxpayer may send in his or her list, duly sworn to, by another person, or such list may be rendered by an agent having knowledge of his or her taxable property. Any person who knowingly subscribes to a list of property which is false, is guilty of perjury.

(Aikin's Digest, p. 412, § 17; Clay's Digest, p. 564, § 37; Feb. 17, 1885, p. 21, § 3; Feb. 18, 1895, p. 1192, § 23.)

2110. (3938) (481) When assessment of property made on information.—If any taxpayer refuses or fails to make such

Assessments; Duties of Taxpayer; Filing Lists, Books, Etc.

return as herein required, or the assessor be not satisfied with the correctness thereof, the assessor shall, from the best information he can obtain from any source within his reach, make such assessment of the property and subjects of taxation, to be charged against such taxpayer, as he may deem just and lawful.

(Feb. 17, 1885, p. 21, § 6; Feb. 28, 1887, p. 3, § 1.)

2111. (3939) Assessor to fix value of each item of property.

—The assessor shall, from such list and from all other information known to him, ascertain the amount and actual cash value of each item of property so returned by or listed to any taxpayer; and the assessor shall, in separate columns, enter on such list such amount and value and the deduction for exemptions to which such taxpayer is entitled; and the assessor shall also add to such list any item of property owned by such taxpayer, or in which he has any interest whatsoever, and which he has failed or omitted to place on such list; and the assessor shall, upon demand, furnish the taxpayer with a certified copy of his assessment list so amended.

(Aikin's Digest, p. 412, § 21; Feb. 18, 1895, p. 1192, § 22.) Validity of assessment of municipal taxes; proportionate amount of increased valuation.—City of Bessemer v. Tenn. Coal & Iron Co., 131 Ala. 138 (31 So. 492).

2112. (3940) (475) How values estimated; minerals and timber, when assessed separately.—Real and personal property shall be estimated at its value in money, according to the best judgment the assessor can form upon information, inspection, or otherwise, taking into consideration, if real estate, its location, whether in town, city, or country, and whether it is vacant and lying idle, or is occupied and in use, and if occupied and in use, the rent derived therefrom, its proximity to local advantages, its quality of soil, growth of timber, mines, minerals, quarries, or coal beds, and the amount and character of the improvements thereon; and mineral and timber interests, when they have been severed in ownership from the soil, by sale or otherwise, shall be separately assessed; and if the person returning such list demand it, the assessors shall enter the values of such property in his presence.

(Feb. 17, 1885, p. 21, § 134.) State board of assessment assess only such items as are required to be returned to the auditor; the assessor assesses other property.—N. & D. R. R. Co. v. State, 129 Ala. 142 (30 So. 619). The owner of a log ditch liable for taxes; such ditch has a value separate and distinct from lands.—Sullivan v. State, 117 Ala. 214 (23 So. 678). Evidence of value of other lands in neighborhood.—Ala. Min. Land Co. v. Commissioners of Perry Co., 95 Ala. 105 (10 So. 550). Evidence held not to justify increased valuation of capital stock in corporation.—Capital City Co. v. Montgomery, 92 Ala. 366 (9 So. 343). Market value at cash sale, not a forced sale; second, productiveness of property or profit-yielding capacity to be considered in fixing value.—State v. Bienville Water Co., 89 Ala. 325 (8 So. 54).

2113. (3941) (476) How real estate may be described.—The description of real estate may be as follows:

1. If it is an entire section, it may be described by the number of the section, township, and range.

2. If it is a subdivision of a section, authorized by the United States for the sale of public lands, it may be described by a designation of such subdivision, with the number of the section, township, and range.

3. If it is less or other than such subdivision, it may be described by metes and bounds, or in some way by which it may be known.

4. If it is in a city, town, or village, surveyed and laid off, and a plat thereof is recorded in the office of the judge of probate of the county, and it is a whole lot or block, it shall be described by the designation of the number thereof; and if it is a part of a whole lot or block, it may be described by metes and bounds, or in some other way by which it may be known; and it shall not be necessary to insert the quantity of such land in the assessment.

5. If it is a tract of which the subdivision is not known to the assessor, it may be described by metes and bounds, or in some other way by which it may be known or identified.

6. It shall be sufficient to describe lands to be assessed or sold for taxes, by initials, abbreviations, and figures.

(Feb. 17, 1885, p. 21, § 7.) Property described as "V. L. N. E., Cedar and Tennessee," held insufficient.—*Smith v. Cox*, 115 Ala. 503 (22 So. 78). Mistake in description of lands on a void sale.—*Oliver v. Robinson*, 58 Ala. 46. Description.—*Driggers v. Cassady*, 71 Ala. 529; *Jones v. Pelham*, 84 Ala. 208 (4 So. 22); *Scott v. Brown*, 106 Ala. 604 (17 So. 731); *Zundel v. Baldwin*, 114 Ala. 328 (21 So. 420).

2114. (3942) (477) By whom property should be listed.—The property of every minor should be listed by his guardian, if he has one; if he has no guardian, by his father, if living; if the father is dead, by his mother, if living; if the the mother is also dead, or is married, by the person having it in charge; of the wife, by the husband, if living and sane, and the parties reside together; if the husband is dead or insane, or is not living with the wife, by the wife; of any person for whose benefit property is held in trust, by the trustee; of every deceased person, by the executor or administrator; of those whose property is in the hands of receivers, by such receivers; of every firm, or body corporate or politic, by the partner, president, principal officer, or agent thereof; property in the hands or custody of any public officer or appointee of a court, by such officer, or appointee; of those absent or unknown, by their agents, or the person having it in charge; of insane or idiotic

Assessments; Duties of Taxpayer; Filing Lists, Books, Etc.

persons of full age, by their guardians, if they have any; if they have no guardian, by the person having it in charge; of the lessors of real property, by such lessors; and all persons herein required to list property for others shall list it separately from their own, and in the name of the owner thereof.

(Feb. 17, 1885 p. 21, § 8.) Lease of timber interest in land subject to taxes; how such lands and the timber interest should be assessed.—*Freeman v. State*, 115 Ala. 208 (22 So. 560): Assessment made by husband for wife.—*Steed v. Knowles*, 97 Ala. 573 (12 So. 75). Land assessed as estate of "S. deceased" is invalid and tax sale thereunder confers no title.—*Scott v. Brown*, 106 Ala. 604 (17 So. 731); *Jackson v. King*, 82 Ala. 432 (3 So. 232).

As amend-
ed, Mar. 5,
1901, p.
218, § 11.

2115. (3943) (508) Assessment of property and receipts of telephone companies; penalty.—The president, secretary, or manager of every telephone company, except long distance telephone companies, owning or operating lines, must annually, on or before the first day of February, make, under oath, to the assessor of the county in which such instruments are located, or such lines are operated, a return of the number of miles of telephone wire in the county belonging to such company and the value thereof, the number of poles, batteries, instruments, and articles of all kinds in the county connected with its business and the value thereof, and the amount of the gross receipts of such company from its business done in the county during the preceding tax year; and in case such return is not made by any company within the time required, the assessor must ascertain, from the best information he can obtain, the amount and value of such property, and the amount of such receipts; and on the property and receipts so returned or ascertained, the assessor shall assess the taxes against such company; and when there has been a failure on the part of any company to make a return of such property and receipts within the required time, the assessor shall add to the assessment against such company a penalty of fifty per cent on the amount thereof. Such assessment, as well as the assessment of other taxable property of such company in the county, must be entered by the assessor in the book of assessments.

2116. (3944) (482) When assessment of receipts made on information; penalty.—When any person, or any company, corporation, or association, existing under the laws of this state, or under the laws of any other state or country doing business in this state, is required to make to the assessor returns of the gross or net receipts, premiums, or commissions of such business, and such returns are not made within the time required by law, but shall remain in default for the space of ten days thereafter, the assessor, after notice to the party required to make such returns, or if he is absent from the county, without notice, shall, upon the best information which

Assessments; Duties of Taxpayer; Filing Lists, Books, Etc.

he can obtain, ascertain the probable amount of such receipts, premiums, or commissions, and shall assess to the person, company, corporation, or association, so in default, the amount so ascertained, with fifty per cent thereon as a penalty; and the amount so assessed, including the penalty, shall be the amount on which the tax levied by law shall be collected.

2117. (3945) (483) Assessment made on information after February first; five per cent penalty.—Having failed to procure, upon verbal or written demand, from any delinquent, his list of taxable property before the first Monday in February, the assessor shall ascertain, from inquiry or otherwise, the property and other subjects of taxation upon which such person is liable to be taxed, to the best of his information, and assess the same at its actual cash value, to the best of his judgment, and add ten per cent of such value to the same as a penalty for non-assessment, which penalty shall not be remitted, except upon proof that the delinquent taxpayer was absent from the state, and had no resident agent therein during the time for rendering assessment, or when such taxpayer labors under disability of minority, or is a lunatic, or upon proof made that he was unable to meet the assessor at his appointment by reason of sickness.

2118. (3946) (484) Assessments to "owners unknown;" how made; lands in one body not to be split up to multiply fees.—Whenever the assessor, while performing the duties of his office, knows or learns of any property, real or personal, subject to taxation in his county, the owners of which he does not know, and which is not embraced in any return made him, prior to the first of February, by any taxpayer, he shall assess the value to "owners unknown," according to the best information which he can obtain, and shall add to the actual cash value thereof ten per cent as a penalty for non-assessment, which said penalty shall not be remitted by the court of county commissioners, except upon proper showing by the taxpayer that he was absent from the state and had no agent in the state at the time of the assessment, or that such taxpayer labored under the disabilities of minority, was insane, or was disabled by sickness from attending the tax assessor's appointments; and when the tax assessor finds a lot, tract, or parcel of land that has escaped taxation, it shall be his duty to assess such land to "owner unknown," and in any notice or advertisement or motion for a decree of sale, it shall be described as so assessed; and the assessor shall be entitled to the same fees for making such assessment as for demands made by him on taxpayers. In such case lands lying in one body, other than lands platted and divided into lots, shall be assessed as a whole,

Assessments; Duties of Taxpayer; Filing Lists, Books, Etc.

unless the assessor has reason to believe that they belong to different owners, in which case all the lands lying in one body and supposed to belong to the same owner must be included in one assessment; and no fee shall be allowed the assessor for any assessment made in disregard of this provision, but the assessment is not for that reason invalid. But no lands shall be assessed to "owner unknown" until the assessor shall have made a demand upon the person, if resident in the county, or by registered mail of a nonresident whose address is known, to whom said lands or property were last assessed, in the event said lands or property have been assessed, and said assessor shall make diligent inquiry to ascertain the name of the owner of said lands or other property.

(Feb. 18, 1897, p. 1489, § 7; Feb. 17, 1885, p. 21, § 25.) Rigid adherence to the direction and forms of statute regulating assessment and sale of land for taxes is required; otherwise sales founded on them are void.—*Nat. Bank v. Baker Hill Co.*, 108 Ala. 635 (19 So. 47). Valid assessment initial step to valid sale.—*Crook v. Anniston Co.*, 93 Ala. 4 (9 So. 425). Requisites of assessment to owner unknown.—*Lowe v. Martin*, 79 Ala. 366. The validity of tax depends upon law in force when it was made; presumptions not indulged in favor of regularity.—*Oliver v. Robinson*, 58 Ala. 46. Cannot be assessed "owner unknown" if assessor could by proper inquiry and search ascertain the owner.—*Oliver v. Robinson*, 58 Ala. 46. When statutory provisions are directory and when mandatory.—*Auditor v. Jackson Co.*, 65 Ala. 142. Assessment of railroad property; apportionment by auditor; board of equalization, time of meeting; signing of record by members of board, presumption in favor of proceedings; report of railroad officials.—*Ib.* Auditor's duties and powers in matter of assessment.—*Ib.* Liability of railroad property to county for taxation; apportionment of auditory.—*Perry Co. v. S. & M. R. R. Co.*, 65 Ala. 391.

As amended,
Mar. 4,
1903, p
191.

2119. (3947) (485) Assessment of escaped taxes.—Whenever the assessor, while assessing the property and other subjects of taxation in his county, shall discover that property has escaped taxation in any assessment within five years next preceding, he shall assess the taxes against such property, for the years during which such property has so escaped taxation. Any assessor who shall knowingly permit any property to escape taxation shall be deemed guilty of willful neglect of duty.

(Feb. 17, 1885, p. 21, § 31.)

2120. (3948) (486) Form and contents of assessment list; assessor to make plat-book, etc.—The taxable property, and other subjects of taxation, and the property exempt from taxation, shall be entered, or caused to be entered, by the assessor, upon a blank assessment list in the form prescribed by the state auditor, with a full description of all property shown therein; and the assessor shall ascertain the value of each item or subject of taxation, and shall enter the same in appropriate columns upon such assessment lists; and the assessor shall

Assessments; Duties of Taxpayer; Filing Lists, Books, Etc.

also enter, in appropriate columns, upon such lists, the amount of state, county, and special taxes, on the aggregate of all real and personal property separately. And the assessor shall also make out a complete plat-book of all real estate in his county, unless such plat-book has already been provided, on a book to be prescribed by the state auditor, on which book the name of each owner shall be entered on the separate plat assessed to or by him, where the same is practicable; for which book each county court of commissioners or board of like jurisdiction shall pay, if the price of the same be found by them to be reasonable, and shall also pay the assessor for making out such plat-book a sum not exceeding one hundred dollars in counties of twenty-five thousand inhabitants and upwards, and fifty dollars in counties of less than twenty-five thousand inhabitants.

(Feb. 18, 1897, p. 1489, § 8; Feb. 17, 1885, p. 21, § 24.) Sufficiency of description and value of items assessed.—*State v. Kidd*, 125 Ala. 413 (28 So. 480).

2121. (3949) Assessor to deliver assessment lists to court of county commissioners, etc.—Such assessment lists shall be, by the assessor, delivered to the court of county commissioners, or other court of like jurisdiction, for examination in connection with the book of assessments, together with such supplemental assessments as he may make on or before the first Monday in June of each year, for examination by such court.

2122. (3950) (487) Condensed statement of assessment and polls entered in books by assessor.—The assessor must make and enter in a book, suitably ruled and substantially bound, a condensed statement of all assessments made during each tax year, showing, in separate columns, the names of persons assessed in each precinct, in alphabetical order; the number of acres of land and other real estate, with the description and value thereof; and the number, amount, and value of all other taxable property, and subjects of taxation assessed to each person, and property exempt from taxation; and the number, amount, and value of each separate item entered therein, together with the amount of the state tax charged to each taxpayer, shall be extended and footed up, the footings carried forward, from page to page, and the total amounts thereof footed up. (r.o.c.)

2123. (3951) (488) Books and lists to be delivered to judge of probate.—On or before the first Monday in May of each year, the assessor shall deliver to the judge of probate of his county such assessment book and poll-tax book, and also all assessment lists, including supplemental assessment lists; and

Assessments; Duties of Taxpayer; Filing Lists, Books, Etc.

such books and lists shall be open to the inspection and examination of all persons.

2124. (3952) Judge of probate to examine book, and if correct, give duplicate receipts therefor; copy to be sent auditor.—Upon the delivery of such assessment books to the judge of probate he shall carefully examine the same, and, if made correctly and in accordance with the law, he shall receive the same, giving duplicate receipts therefor to the assessor, one of which duplicates shall be by the assessor promptly forwarded to the state auditor; but if the judge of probate find such books of assessment improperly made and not in accordance with the law, he shall forthwith report the facts to the governor.

2125. (3955) (492) Duty when taxpayer about to leave county.—When the assessor has reason to believe that any person who has been assessed is about to leave the county, he shall at once notify the tax collector, and on his failure to do so, he shall be liable for the full amount of the taxes due, or to become due upon such assessment.

2126. (3956) (493) Duty to compute and enter county taxes and complete assessment book.—After the county taxes shall have been levied by the court of county commissioners, the assessor must compute the amount thereof owing by each taxpayer, and enter the same in the book of assessments opposite the name of such taxpayer, and otherwise complete such book according to law and the orders of the court of county commissioners.

2127. (3957) Land-book to be prepared by assessor.—It is the duty of the tax assessor of every county in this state to procure, at the expense of the county, a book, properly ruled and bound, in which he shall enter a complete list of all the lands in the county, by the smallest subdivisions, beginning with the lowest section, township, and range, proceeding in numerical order to the highest, and indicating the same by initial letters, abbreviations, and figures in a marginal column on the left of every page.

2128. (3958) Form of book and entries to be made.—Such book shall contain not less than four blank columns on each page, in one of which, and opposite to each subdivision, the tax assessor shall enter annually, stating at the top the year of entry, the word "public," if the same is public; the word "school," if the same is school land; the word "state," if the same has been bid in by the state for taxes; and opposite to such lands as are taxable, he shall enter the name of the reputed owner, but when the name of the owner is not known he shall write the words "owner unknown."

Assessments; Duties of Taxpayer; Filing Lists, Books, Etc.

2129. (3959) Lands to be listed each year.—The assessor shall list such lands each year, as provided in the preceding section, by comparing the list of the preceding year with the assessment sheet with the list of lands bid in by the state for taxes, as furnished by the state auditor, and with the supplement to the county tract-book, as furnished the judge of probate by the secretary of state.

2130. (3960) Land-book to be delivered to judge of probate by first Monday in May.—The assessor shall deliver such book, with the listing complete for the year, to the judge of probate of his county on or before the first Monday in May of each year, and the same shall be open to inspection and examination of all persons until the first day of October following, or until such time thereafter as it shall be required by the tax assessor; provided, that said book shall be kept in the office of the judge of probate or in the office of the tax assessor, provided he has an office at the county seat.

As amended, Mar. 4, 1908, p. 191.

2131. (3962) Judge of probate to receipt for land-book and certify fact to auditor.—It is the duty of the judge of probate to issue to the tax assessor, when such book is delivered, if properly filled out for the year, according to the provisions of this article, a receipt for the same, and immediately certify the fact to the state auditor.

2132. (3963) Compensation of assessor for making land-book.—For the services rendered by the assessor in respect to such land-book, he is entitled to compensation, to be allowed by the court of county commissioners, and paid by the county as follows: In counties whose population does not exceed ten thousand inhabitants, not more than fifty dollars; in counties whose population exceeds ten thousand inhabitants, and does not exceed twenty thousand, not more than seventy-five dollars; in counties whose population exceeds twenty thousand inhabitants, and does not exceed thirty thousand, not more than one hundred dollars; in counties whose population exceeds thirty thousand inhabitants, and does not exceed forty thousand, not more than one hundred and twenty-five dollars; in counties whose population exceeds forty thousand inhabitants, and does not exceed sixty thousand, not more than one hundred and fifty dollars; in counties whose population exceeds sixty thousand, not more than two hundred dollars.

(Feb. 18, 1897, p. 1489, § 11.) *Looney v. Jackson Co.*, 105 Ala. 597 (17 So. 105).

ARTICLE 6.

ASSESSMENTS AGAINST RAILROAD AND TELEGRAPH COMPANIES; STATE BOARD OF ASSESSMENT, ITS POWERS AND DUTIES. 2133-2145.

SECTION.

2133. Return to be made by railroad companies to auditor.
 2134. Duty of auditor on failure to make such return.
 2135. State board of assessment.
 2136. Meetings of such board.
 2137. Assessment by board; penalty for failure to make return.
 2138. Adjournment of board; powers relative to obtaining data for assessments.
 2139. Attendance and duty of attorney-general at meeting of board.
 2140. Record of proceedings; attorney-general decides when board equally divided.

SECTION.

2141. Principles of valuation of railroad, long distance telephone, and telegraph property.
 2142. Notice to assessors, and copy to superintendent of companies; duty of assessors.
 2143. Returns to be made by telegraph companies.
 2144. Report of auditor to state board; assessment, and proceedings thereon; penalty.
 2145. Assessment of other property of railroad, etc., companies.

2133. (3964) (494) **Return to be made by railroad companies to auditor.**—On or before the first day of February of each year the president, secretary, or auditor of any railroad company whose track or roadbed, or any part thereof, is in this state, or if such railroad is in the hands of a receiver, such receiver shall, under oath, make to the state auditor a return in writing of the total length of such railroad, including the right of way, roadbed, side tracks and main track in this state, and specifying the total length in this state, and in each county, city, and incorporated town in this state; and also of the number of the locomotive engines, and passenger, freight, platform, construction, and other cars of such company, and of the average amount of merchandise and supplies kept or carried on trains for sale or other disposition, for a profit by such company, to employes or other persons in this state, for the year next preceding the return; and such return the state auditor shall lay before the state board of assessment at its next meeting thereafter.

(Feb. 17, 1885, p. 21, § 11.) State board of assessment assess only such items as are required to be returned to the auditor; the assessor assesses other property.—*N. & D. R. R. Co. v. State*, 129 Ala. 142 (30 So. 619). State board no jurisdiction to assess property except right of way, roadbed, sidetracks, main track, rolling stock, etc.; depots, platforms, station houses or water tanks are not within statute.—*N. & D. R. R. Co. v. State*, 129 Ala. 142 (30 So. 619). Right of way and roadbed treated as real estate.—*Purifoy v. Lamar*, 112 Ala. 123 (20 So. 975). Segregated part of railroad sold to pay taxes.—*Ib.*

2134. (3965) (495) **Duty of auditor on failure to make such return.**—If such return is not made on or before the first day

Assessment Against Railroad and Telegraph Companies; State Board of Assessment.

of February of each year, the state auditor shall proceed to ascertain the items and values in the preceding section mentioned, from the best information he can obtain, and report the same to the state board of assessment at its next meeting thereafter.

(Feb. 17, 1885, p. 21, § 12.)

2135. (3966) (496) State board of assessment.—The governor, secretary of state, auditor, and treasurer of the state shall constitute a board for the assessment of the items of property of railroad and other companies required to be returned to the state auditor, to be known as the state board of assessment. The governor shall be president of such board, and a majority thereof shall constitute a quorum. In the absence of the governor, the state auditor shall be president pro tempore of the board.

(Feb. 17, 1885, p. 21, § 13.)

2136. (3967) (497) Meetings of such board.—Such board shall meet at the office of the state auditor annually, on the first Wednesday in February, and if there should not be a majority of the board present at that time, the state auditor shall immediately notify the governor of the fact, who shall appoint another day for the meeting of the board, as early as practicable thereafter, and of such appointment the state auditor shall notify the other members and the attorney-general; and should any further failure to meet occur, the governor shall have the power and he is required to repeat the appointment until a quorum is obtained; and of such subsequent appointment like notice must be given by the state auditor.

(Feb. 9, 1891, p. 493; Feb. 17, 1885, p. 21, § 13.)

2137. (3968) (498) Assessment by board; penalty for failure to make return.—The board when assembled, if ready to act, shall proceed to examine the returns made by railroad companies, and the reports of the state auditor, when no such returns have been made, and determine the valuation of the different items of property required to be returned to the state auditor, and to assess such property for taxation; and in case no return has been made by or on behalf of any such railroad companies, the board may add to the assessment which it may make against such company, a penalty of not exceeding fifty per cent thereon.

2138. (3969) (499) Adjournment of board; powers relative to obtaining data for assessments.—If at any meeting the board should not have in its possession satisfactory data upon

Assessment Against Railroad and Telegraph Companies; State Board of Assessment.

which to base an estimate of the value of the property with the assessment of which it is charged, or from any other cause is not able to make or complete any assessment, it may adjourn for any interval of time which may, in its opinion, be requisite to accomplish its object; and it shall have power to call upon any officer or agent of any railroad company, or upon any receiver in charge of the railroad of any company, for any records, books, or documents of any description pertaining to the business of such company, or for answers to any interrogatories which it may deem necessary to an intelligent discharge of its duties; and it shall also have power to require the attendance of any officer of any railroad company, or any other person, where the testimony of such officer or person may to it seem material.

2139. (3970) (500) Attendance and duty of attorney-general at meeting of board.—The attorney-general shall be present at every meeting of the board, to represent the interest of the state; and it shall be his duty to assist the board with his advice, or otherwise, and to make such suggestions and representations to it as he may deem advisable for the protection of the interests of the state; and his absence shall be sufficient cause for adjourning the session of the board.

2140. (3971) (501) Record of proceedings; attorney-general decides when board equally divided.—The board shall keep a record of its proceedings, which shall show what members were present at its meetings; and when the members are equally divided upon any question, the attorney-general shall decide such question; and in every case in which he dissents from the conclusion of a majority of the board, he shall spread upon the records his reasons for such dissent.

As amended,
Mar. 7,
1907, p.
349, § 1.

2141. (3972) (502) Principles of valuation of railroad, long distance telephone, and telegraph property.—The valuation of the property of railroads, long distance telephones, and telegraph companies for taxation, shall be made upon the same principles as the valuation of every other species of property; that is to say, the valuation of such property shall be had upon the consideration of what a clear fee simple title thereto would sell for under the conditions under which that character of property is most usually sold, and as evidence tending to show what this would be, the state board of assessment shall ascertain as near as they can and consider the average market value of the stocks and bonds of such companies in the markets during the preceding twelve months, and shall also take into consideration the estimated investments, and valuation of said property as returned by the duly authorized officers or agents of said companies to the railroad commission as a basis for

Assessment Against Railroad and Telegraph Companies; State Board of Assessment.

the adjustment of rates for services to the public by such companies, and all other legal information as to such values which they may obtain.

2142. (3973) (503) Notice to assessors, and copy to superintendent of companies; duty of assessors.—When the board shall have completed the assessment of the property of any railroad company, the state auditor shall notify the tax assessor of each county, through which such railroad runs, of the number of miles of track in his county, and the value thereof, and the proportionate value of the other property of such company assessed by the state board of assessment, and taxable in his county, which he must enter in the book of assessments, in addition to the assessment of other real estate, fixtures, machinery, tools, and other property of such company, to be assessed as other property of like kind owned by private citizens of his county; and the state auditor shall also send to the superintendent of each railroad company, so assessed by such board, a copy of his notification to the tax assessor touching the assessment against such company.

2143. (3974) (504) Returns to be made by telegraph companies.—The president, secretary, auditor, or managing agent in this state of every telegraph or long distance telephone company, whose line, or any part thereof, is located within this state, must annually, on or before the first day of February of each year, make, under oath, to the state auditor, a return of the number of miles of telegraph or telephone wire in the state belonging to such company, and the number of poles, batteries, instruments, and articles of all kinds, in the state, connected with its business, specifying the several counties in which such property is situated, and the items of property situated in each of such counties, and if any such company, its officers, or agents fail to make such return, within the time specified, the state auditor must ascertain such items of property and values from the best information he can obtain.

As amended,
Mar. 5,
1901, p.
219, § 12.

2144. (3975) (505) Report of auditor to state board; assessment, and proceedings thereon; penalty.—The state auditor must lay before the state board of assessment, at its next meeting thereafter, such returns, and when not made by any company, he must report to the board the items of property and value of the company failing to make returns, as ascertained by him; and thereupon the board must proceed to examine such returns and reports, determine the valuation of such property, and assess the same for taxation, as in the case of assessment of the property of railroad companies, and it may add to the assessment against any telegraph or long

As amended,
Mar. 5,
1901, p.
219, § 12.

Powers and Duties of Courts of County Commissioners; Levy of County Taxes.

distance telephone company failing to make returns within the required time a penalty of not exceeding fifty per cent thereon. Upon the completion of the assessment against any telegraph or long distance telephone company by the board, the state auditor shall give to the tax assessors of the several counties in which such property is situated, and to the superintendent or managing agent of such company in this state, the same notification touching such assessment as is required of him in case of assessment against railroad companies; and thereupon such assessors must act in reference to such assessment, and to assessment of any other property of such company taxable in their counties, as they are directed to act in cases of assessment against railroad companies by the state board of assessment.

2145. (3976) (509) Assessment of other property of railroad, etc., companies.—All property, real or personal, belonging to railroad, telegraph, telephone, sleeping car, and express companies, which is not required by the provisions of this article to be returned to the state auditor, must be returned to the tax assessor of the county in which it is taxable, and by him assessed as other property in the county is returned and assessed.

ARTICLE 7.

POWERS AND DUTIES OF COURTS OF COUNTY COMMISSIONERS, AND DUTIES OF JUDGE OF PROBATE TOUCHING ASSESSMENTS; LEVY OF COUNTY TAXES. 2148-2159.

SECTION.

- 2146. Terms of commissioners' court.
- 2147. Duties of the court at the June term.
- 2148. Correction of errors in assessments; proceedings; appeal.
- 2149. Oath of county commissioners or board of revenue.
- 2150. Duty of assessor to attend court.
- 2151. Assessments of escaped taxes reported to court; how entered, collected, and paid over.
- 2152. Intent and purpose of foregoing provisions; same liberally construed.
- 2153. When collector notified of changes in assessment.

SECTION.

- 2154. Court may require assessor and collector to produce books and papers.
- 2155. Levy of county tax.
- 2156. Certificate on book of assessments after it is corrected and completed; warrant of collector.
- 2157. On completion of the book of assessments; judge of probate to make abstracts for auditor and collector.
- 2158. Judge of probate to furnish abstract book to collector before October first; compensation forfeited by delay.
- 2159. List of insurance agents furnished assessor.

2146. (3977) (510) Terms of commissioners' court.—For the performance of their duties under this chapter, the court of county commissioners, or other court having like jurisdic-

Powers and Duties of Courts of County Commissioners; Levy of County Taxes.

tion, in every county, shall hold regular terms on the first Monday in June and the second Monday in July of every year, and such adjourned and special terms as may be necessary; and such terms, regular, adjourned, and special, may continue until the business of the court has been completed.

(Feb. 17, 1885, p. 21, § 38; Feb. 18, 1897, p. 1489, § 13.) Court of county commissioners, validity of order made at adjourned term.—*Matkin v. Marengo Co.*, 137 Ala. 155 (34 So. 171). Levy of county taxes; county board of equalization; meeting of commissioners' court.—*Perry Co. v. S. & M. R. R. Co.*, 65 Ala. 391.

2147. (3978) (511) Duties of the court at the June term:—

The judge of probate, at the term of such court commencing on the first Monday in June, shall deliver to the court the book of assessments, and all lists of assessments, as received by him from the assessor; and the court shall then proceed to examine the same, and if they are prepared according to law, the court shall accept them; but the court must refuse to accept any assessment list not returned in the manner prescribed by this chapter, unless it shall satisfactorily appear that the prolonged absence, or the non-residence of the taxpayer, was the cause thereof; and all assessment lists accepted by the court must be alphabetically arranged under its direction, and be carefully preserved for reference for five years, when they may be destroyed. The court must also order notice to be given for fifteen days, by advertisement in some newspaper published in the county, or if there be none, by posting the same at the courthouse door and two other public places in the county, that the book of assessments has been prepared and is ready for inspection, and that the court will sit on the second Monday in July thereafter to examine the assessor's returns, and to correct any errors therein; and it shall be the duty of the judge of probate to see that such notice is given.

(Feb. 18, 1897, p. 1489, § 14; Feb. 17, 1885, p. 21 (§§ 40, 42.) Tax books admissible in evidence.—*Anniston City Land Co. v. Edmonson*, 141 Ala. 366 (37 So. 424). Appeal lies to circuit court; common law certiorari will not lie when appeal is given.—*State v. South. Oil Cotton Co.*, 124 Ala. 523 (27 So. 306). Notice addressed to "the estate" of a decedent and left at his former residence is no notice.—*Carlisle v. Watts*, 78 Ala. 486; *McGee v. Fleming*, 82 Ala. 276 (3 So. 1).

**2148. (3979) Correction of errors in assessments; proceed- (r.c.o.)
ings; appeal.—**Said court shall sit on the second Monday in July, for the purpose of hearing objections to the assessments as provided in the preceding section, and shall, if the notice therein provided has been given, determine the same, on the evidence which may be offered. Whenever objection is made, the court must cause the case to be stated on a docket in the name of the State of Alabama, as plaintiff, and the taxpayer as defendant, with a note of the objection set opposite the

Powers and Duties of Courts of County Commissioners; Levy of County Taxes.

statement of the case. The assessor shall attend all trials of objections to assessments, and shall subpoena witnesses and introduce all documentary evidence which may be necessary to a full understanding of the question. If the taxpayer appears in person or by attorney, or has had five days' notice, the court shall raise or reduce the valuation of any property or subject of taxation and fix it at the sum which the evidence shows to be the fair market or real value thereof, and shall add such items of taxation and fix the value thereof, as may have escaped assessment. If necessary, the court may postpone the hearing to a future day, and may cause notice to the defendant to be served on him by the assessor, if he is a resident of the county, or on his agent or attorney, if the taxpayer does not reside in the county, or if he does not reside in the county and has no agent or attorney therein, then notice shall be given by registered mail by the assessor. In hearing such objections, the court shall receive only evidence touching the fair market or real value of the property, and shall take into consideration its character, whether improved or not, its surroundings, and, if it is productive, the amount of its average annual yield, and every other fact which a prudent man seeking to buy the property would consider, and must render its decision at once, unless the taxpayer consents to a longer time, and the decision must be entered on the docket and signed by the presiding officer of the court. From the judgment of the court either party may appeal in ten days to the next term of the circuit court, or court of like jurisdiction, where the cause shall be tried *de novo*, but a bond in double the amount of the tax and probable cost shall be required of the taxpayer, conditioned to prosecute such appeal to effect, and pay such judgment as the court may render. If on the trial of the appeal it should appear that the appeal was taken for delay, judgment must be rendered against the appellant and his sureties for the amount of the tax and costs and ten per cent thereof. If no appeal is taken, the tax assessor shall correct the assessment lists according to the judgment of the court. The lien of the state on all the property of the taxpayer shall not be discharged by any appeal, but the same shall continue till the tax and costs and damages, if any, are paid in full. The court of county commissioners shall have power to correct any error or omission discovered after the July term. All appeals taken under this section shall be preferred cases, and must stand for trial at the term next after the appeal; and if the taxpayer is the appellant and the appeal is continued for the term, the court must order the taxpayer to pay the amount of taxes at which the owner assessed the property the current year, and such order of the court, entered of re-

Powers and Duties of Courts of County Commissioners; Levy of County Taxes.

cord; shall be sufficient authority to the tax collector to collect that amount of the taxes claimed. But no change shall be made in the values of any preceding year when the taxes have been collected on such property.

(Feb. 18, 1897, p. 1489, § 15.) Power of commissioners' court; right of state to appeal. Not necessary to have assessment of tax commissioner; evidence as to value.—Tenn. C. I. & R. R. Co. v. State, 141 Ala. 103 (37 So. 433). Sufficiency of declaration filed after appeal; amendment of March 3, 1903, not retroactive.—Hooper v. State, 141 Ala. 111 (37 So. 662). Property secured by pledge of United States bonds taxable.—Hooper v. State, 141 Ala. 111 (37 So. 662). "Solvent credits" taxable under former statute.—Hooper v. State, 141 Ala. 111 (37 So. 662). The owner of log ditch liable for taxes; such ditch has a value separate and distinct from lands.—Sullivan v. State, 117 Ala. 214 (23 So. 678). Value of other lands in neighborhood as evidence to fix value of particular land.—Ala. Min. Land Co. v. Perry Co., 95 Ala. 105 (10 So. 550). Appearance a waiver of notice.—Com'rs v. Woodstock I. Co., 82 Ala. 151 (2 So. 132); Tillis v. Com'rs, 91 Ala. 396 (8 So. 794). Judgment separate as to each taxpayer; joint certiorari not awarded.—Carter v. Com'rs, 80 Ala. 394. Proceedings on appeal; evidence.—Sullivan v. State, 110 Ala. 95 (20 So. 452); Ala. Min. Land Co. v. Com'rs, 95 Ala. 105 (10 So. 550); State v. Bienville Water Co., 89 Ala. 325 (8 So. 54).

2149. Oath of county commissioners or board of revenue.—Annually, before commencing to perform their duties for the correction of errors in the assessments, each member of the board of revenue, or court of county commissioners, shall take and subscribe the oath set out hereinafter. The state auditor shall forward annually in June of each year to the chairman of such boards or courts printed forms of such oaths, together with a circular letter setting out in full section 2152 (3982) of the Code, with the penalties provided by law for failure to comply with the same, and directing that said oath shall be taken and entered upon the minutes of the board or court. Said oath shall be in form and substance as follows:

Mar. 5,
1901, p.
220, § 14.

State of Alabama, }
County of _____ }

Before me (to be administered by any judge, register, justice of the peace, or notary public) personally appeared _____, members of the board of revenue, or court of county commissioners, of _____ county, who on oath declare and say that while engaged in the duty of correcting errors in assessments or passing on the assessment of escaped taxes, they will fix a value on all property assessed for taxes at its fair cash market value, and that they will in no case, where the facts are brought to their knowledge, reduce the value of any property for taxation below the fair market value of the property, or what the property would sell for cash, and that they will make diligent effort and inquiry to ascertain the value of all property to be passed on by them. Sworn to and subscribed before me, this _____ day of July, 19____.

Powers and Duties of Courts of County Commissioners; Levy of County Taxes.

2150. (3980) (513) Duty of assessor to attend court.—The tax assessor shall attend the terms of such court held in June or July, or any adjourned or special term thereof, while the court is engaged in examining, hearing, and correcting assessments.

As amend-
ed, Mar. 4,
1908, p.
191.

2151. (3981) (514) Assessments of escaped taxes reported to court; how entered, collected, and paid over.—Every assessment of escaped taxes against any property, made by the assessor, collector, or tax commissioner, shall be by him reported in writing to the court of county commissioners, who, upon five days' written notice to the person against whom the assessment is made, if known, is in the county, or has an agent therein, who is known to the assessor, or to the court, to be served on him or his agent by the assessor, or his deputy, shall, at any regular, adjourned, or special term, proceed to allow, modify, or reject the assessment as the justice of the case, upon the evidence adduced, may require. If the person against whom the assessment is made is a non-resident of the county, or has no known agent therein, ten days' notice shall be given by registered mail addressed to him at his residence, if the same be known. If the assessment is allowed as made, or is modified and allowed, it shall be entered in the book of assessments, collected, and paid over as other assessments for the year in which it was made; but the rate of taxation thereon, both for state and county purposes, shall be governed by the rate for the year or years the subject of the assessment escaped taxation; and the notice herein required may be served by the assessor, collector, tax commissioner, or their deputies, or by the sheriff of the county.

2152. (3982) (515) Intent and purpose of foregoing provisions; same liberally construed.—The intent and purpose of the foregoing sections of this article is to have all property and subjects of taxation fairly assessed, at the value which would be realized therefrom by cash sale, but not a forced sale thereof, in such manner as such property and subjects are usually sold; and for this purpose, the power and authority conferred in this article upon the court of county commissioners shall be liberally construed. But said court is expressly prohibited from reducing the valuation of any property below the fair cash market value of the property, or what the property would sell for cash.

2153. (3983) (516) When collector notified of changes in assessment.—It shall be the duty of the court of county commissioners, if any errors are corrected, or any abatement or deduction in assessments are made at any time after the collector's book has been, by the judge of probate, turned over

Powers and Duties of Courts of County Commissioners; Levy of County Taxes.

to the tax collector, forthwith to notify such collector of the same.

2154. (3984) (517) Court may require assessor and collector to produce books and papers.—The court of county commissioners shall have power to compel, at any time, the production before it of all such books and papers as by law are required to be made or kept by the tax assessor and tax collector, relating to the revenue of the state or county.

2155. (3985) (518) Levy of county tax.—It shall be the duty of the court of county commissioners at the term commencing not later than the first Monday in June, to levy the amount of taxes required for the expenses of the county for the current year, not to exceed one-half of one per cent on the value of the taxable property, and the amount of other subjects of taxation in the county, as assessed for revenue to the state, as shown by the book of assessments after it has been corrected. As amended, Mar. 4, 1906, p. 192.

2156. (3986) (520) Certificate on book of assessments after it is corrected and completed; warrant of collector.—When the court of county commissioners, or other court of like jurisdiction, has completed its examination of assessments, and after the county taxes have been levied, and the assessor has corrected the book of assessments in accordance with the decisions of such court, and after the assessor has extended opposite the name of each taxpayer the amounts of the state and county taxes, and other tax, if any, with which such taxpayer is chargeable, and has footed at the bottom of each page the aggregate amount of each of such taxes, carried his footings from page to page, and shown, in conclusion, the aggregate of each of such taxes, the presiding officer of such court shall certify on the book of assessments that the same has been examined, corrected, and allowed by such court; and that the amount of state tax is \$—, the amount of county tax is \$—, the amount of special tax is \$—, specifying the total amount of each of such taxes; and such certificate shall be the warrant to the tax collector of the county to proceed to collect such taxes in the manner directed by law. (r.c.o.)

(Feb. 18, 1897, p. 1489, § 22; Feb. 17, 1885, p. 21, § 45.) Aggregate of taxes in book of assessment presumed correct; book of county treasurer showing payments made by tax collector.—*Walling v. Morgan Co.*, 126 Ala. 326 (28 So. 433). The proper assessment-book, duly certified, is the collector's warrant.—*Jackson Co. v. Gullatt*, 84 Ala. 243 (3 So. 906).

2157. (3987) (522) On completion of the book of assessments, judge of probate to make abstracts for auditor and collector.—When the book of assessments has been completed as herein provided, the judge of probate must, without delay, make out in duplicate, upon forms to be furnished by the (r.c.o.)

Powers and Duties of Courts of County Commissioners; Levy of County Taxes.

state auditor, a complete abstract of all real and personal property, as contained in the assessment book of his county, showing the total amount and value of each class of taxable property, and property exempt from taxation, and the amount of tax on each item extended in a column, one of which he must forward to the auditor, not later than the first of September of each year, and the other he must deliver to the tax collector by said date. The state auditor shall report to the governor any judge of probate who, for ten days after the time required, has failed to forward to the state auditor the abstract of assessment of his county, and the governor shall forthwith require of such judge of probate an official report of the cause of such failure.

(Feb. 18, 1897, p. 1489, § 23; Feb. 17, 1885, p. 21, § 51.)

2158. (3989) Judge of probate to furnish abstract book to collector before October first; compensation forfeited by delay.—After the book of assessments has been completed as herein provided, the judge of probate must enter in a book, in concise form, the amount of taxes assessed against each taxpayer, showing separately the amount of taxes on real estate and personal property and other subjects of taxation, and the fees of the assessor, with a blank for the fees of the collector; and such book he must turn over to the tax collector on or before the first day of October on which the taxes shall become due and payable; and for the services rendered by him in the preparation of such book, he shall receive compensation, to be allowed by the court of county commissioners as follows, viz.: In counties where the aggregate assessed values of real and personal property amount to two million dollars or less, seventy-five dollars; when the assessed values amount to more than two and not exceeding four million dollars, one hundred dollars; when the assessed values amount to more than four, and not exceeding six million dollars, one hundred and twenty-five dollars; when the assessed values are more than six million and not exceeding eight million dollars, one hundred and fifty dollars; and when the assessed values are more than eight million dollars, such compensation as may be fixed by the court of county commissioners, not less than two hundred dollars and not exceeding three hundred dollars; but any judge of probate who fails to complete such abstract by the time required shall forfeit all right to any compensation.

2159. (3992) (524) List of insurance agents furnished assessor.—The judge of probate must, on or before the tenth day of January of each year, furnish the tax assessor with a list of all agents for insurance companies in his county, with

Tax Collector; Election, Qualification and Compensation; Deputies.
the names of the companies represented by them, so far as the same are disclosed by any records or books in his office.

ARTICLE 8.

TAX COLLECTOR; ELECTION, QUALIFICATION AND COMPENSATION; DEPUTIES.
2160-2168.

SECTION.

2160. Tax collector; election and term of office.
2161. Official bond.
2162. Lien of bond.
2163. Oath of office.
2164. Commissions of tax collector on general and special taxes.

SECTION.

2165. Mileage to and from seat of government.
2166. Cost of transmitting money to state treasurer allowed him.
2167. Fees of collector.
2168. Authority to appoint, and liability for acts of deputies.

2160. (3993) (525) Tax collector; election and term of office.—There shall be elected, at the time, in the manner, and for the term provided by law, a tax collector for every county in the state, who shall perform such duties as are or may be prescribed by law, and whose term of office shall begin on the first day of August next after his election. As amended, Oct. 1, 1906, p. 370.

2161. (3994) (526) Official bond.—Before entering upon the discharge of the duties of his office, the tax collector must execute a bond in duplicate, in double the probable amount of the taxes that may at any one time be in his hands, to be determined for every county by the state auditor, payable to the State of Alabama, with at least two sufficient sureties, to be approved by the judge of probate of his county, and conditioned faithfully to discharge the duties of his office, which are or may be required by law during the time he continues therein, or discharges any of the duties thereof. One of such duplicates shall be filed and recorded in the office of the judge of probate, and the other shall be filed in the office of the state auditor, on or before the first day of July next after his election. (r.o.c.)

(Aikin's Digest, p. 36, § 6; Feb. 17, 1885, p. 21, § 55.) When surety can question sufficiency of notice for new bond; fraudulent representations as to bond; fact that bond was rejected by state auditor.—*Bromberg v. Fidelity Co.*, 139 Ala. 338 (36 So. 622). With what amount tax collector chargeable; to what credits entitled; failure to collect a breach of official bond; when interest recoverable from tax collector's bond; auditor no authority to waive interest.—*State v. Lot*, 69 Ala. 147. Liability on tax collector's bond; loss by robbery; excuse for not making monthly payments; payments to county superintendent.—*State v. Houston*, 78 Ala. 576.

2162. (3995) (527) Lien of bond.—Such bond shall operate, from the date of its execution, a lien in favor of the state and county, on the property of the tax collector, and from the date of his default, on the property of the sureties thereon, for the

Tax Collector; Election, Qualification and Compensation; Deputies.

amount of any judgment that may be rendered against such tax collector for the breach of any official duty; and any new or additional bond, given in pursuance of law by the tax collector, shall operate a like lien.

(Feb. 17, 1885, p. 21, § 55.) Subrogation of surety to rights or liens of county; priority of county's lien.—*Cummings v. May*, 110 Ala. 479 (20 So. 307); *Schuessler v. Dudley*, 80 Ala. 547; *Knighton v. Curry*, 62 Ala. 404. Lien as against homestead and lien upon after-acquired property.—*Callen v. Schuessler*, 86 Ala. 527 (5 So. 795); *Baker v. Schuessler*, 85 Ala. 541 (5 So. 328); *Schuessler v. Dudley*, 80 Ala. 547; *Lott v. Mobile Co.*, 79 Ala. 69. Enforcement of statutory lien in equity; duty to collect escaped taxes; non-joinder of sureties as parties.—*Lott v. Mobile Co.*, 79 Ala. 69. Character and extent of lien; unnecessary that default should be determined in action at law.—*Knighton v. Curry*, 62 Ala. 404. Bill for discovery in action to enforce statutory lien; lien not merely a creature of statute, but also one arises by contract; summary remedy to enforce.—*County of Dallas v. Timberlake*, 54 Ala. 403.

2163. (3996) (528) Oath of office.—He shall also, before entering upon the discharge of the duties of his office, file in the office of the judge of probate of his county, an oath in writing, that he will faithfully and diligently discharge all the duties which are or may be imposed upon him by law; and such oath must also be recorded.

2164. (3997) Commissions of tax collector on general and special taxes.—The tax collector shall be entitled to receive commissions on taxes collected by him as follows, to wit: In counties where collections do not exceed twelve thousand dollars, the rate of commission shall be eight per cent on the first thousand dollars, four per cent on the second thousand dollars, and two per cent on the remainder. In counties where the collection exceeds twelve thousand dollars, the commission shall be as above declared up to twelve thousand dollars, and one and one-half per cent on the remainder up to sixty thousand dollars, and on all above sixty thousand dollars, one per cent. He shall also be entitled to receive two per cent on all collections made by him of special taxes, whether such special taxes be levied for the state or county, to be paid out of such special taxes. The collector may retain his commissions upon collections when he makes payments into the state treasury.

2165. (3999) Mileage to and from seat of government.—He shall receive five cents per mile in going to and returning from the seat of government, for the purpose of making returns and paying the taxes, once in each year, the distance to be the same as that established by law for the members of the legislature.

2166. (4000) Cost of transmitting money to state treasurer allowed him.—He shall also be allowed the actual cost of transmitting his collections to the state treasurer, the same

Collecting, Reporting and Paying Over Taxes.

to be paid out of the treasury, or credited to the collector upon his making his annual settlement with the state auditor.

2167. (4001) Fees of collector.—For making actual demand on delinquent taxpayers, the collector shall be entitled to receive a fee of fifty cents from each taxpayer on whom such demand is made, which shall be charged against such taxpayer and collected for the use of the collector in the same manner and by the same means as taxes are collected, but he shall charge only one fee against each taxpayer. For making a levy on and sale of personal property for the collection of taxes, the collector shall be allowed a fee of one dollar, to be collected out of the property, and in addition thereto he shall be authorized to collect out of such property the actual expenses of keeping and moving the same to the place of sale, provided that the collector may sell any personal property levied on at any place in the precinct that he may determine, or may move the same to the courthouse of the county for sale. For the levy on and sale of a tract, parcel, or lot of land assessed to one owner, or to "owner unknown," the collector shall receive a fee of fifty cents in addition to the demand fee on such delinquent taxpayer, the said fees to be made part of the decree of sale and collected with the taxes due on the land sold or levied on for sale.

2168. (4002) (532) Authority to appoint, and liability for acts of deputies.—The tax collector is authorized to appoint deputies, and the acts of such deputies shall be recognized as his acts, and he shall be responsible for any loss sustained by any taxpayer, or by the state or county, by reason of acts done by such deputies in the line of their powers and duties. Such deputies shall receive no compensation for their services out of the state or county revenues.

ARTICLE 9.

COLLECTING, REPORTING AND PAYING OVER TAXES; INTEREST; ESCAPED TAXES; ERRORS; INSOLVENCIES; LITIGATED TAXES; SETTLEMENTS; WHEN COLLECTOR SUSPENDED. 2169-2209.

SECTION.

- 2169. Appointments by collector, and notice thereof.
- 2170. Effect of collector's failure to attend appointments; new appointments.
- 2171. Demand upon delinquent taxpayers.
- 2172. Payment of taxes.
- 2173. Interest on taxes after becoming delinquent.
- 2174. Receipt of collector to taxpayer.

SECTION.

- 2175. Stub book of receipts kept by collector; delivery and production compelled by commissioners.
- 2176. Sale of personal property; no redemption allowed; payment before sale.
- 2177. Application of proceeds of sale; other levies and sales authorized.
- 2178. No property exempt from sale.

Collecting, Reporting and Paying Over Taxes.

SECTION.

2179. Collection by garnishment; collector to ascertain persons indebted to taxpayer.
2180. Proceedings on garnishment.
2181. Costs in such proceedings.
2182. Shares in private corporations subject to levy and sale for taxes of owner; procedure.
2183. When real estate may be sold for taxes.
2184. List of errors and insolvents and litigated taxes reported to the commissioners.
2185. Duty of commissioners as to such lists; credits allowed collector.
2186. Presiding officer to certify lists to auditor in ten days.
2187. New accounts to be opened against collector for insolencies and taxes in litigation.
2188. Insolvent lists to be delivered to collector within twenty days from adjournment of court.
2189. Duty of collector to collect and report such insolvent taxes.
2190. Collector must make final report of uncollected balances of insolvent and litigated taxes; credits therefor.
2191. Collector must report on retiring from office; liability transferred to successor.
2192. Collection of taxes from taxpayer about to remove from county.
2193. Liability of collector when notified of person about to leave county.
2194. Collection of taxes from person who has removed from the county.

SECTION.

2195. Escaped taxes assessed and collected by collector; his powers in such cases.
2196. Collector must report escaped taxes to judge of probate; entry; abstract.
2197. Separate account of poll tax paid by each race kept.
2198. Poll tax reported and paid into state treasury monthly; duplicate reports to county and state superintendents.
2199. Annual consolidated report of poll tax to be made to county and state superintendents.
2200. Monthly reports and payments to be made by collector.
2201. Monthly report by county treasurer or judge of probate.
2202. Collector must account to auditor in January and April; allowance for commissions, etc.
2203. Final settlement to be made with the auditor on or before the first day of July.
2204. Final settlement to be made with county treasurer on or before the first day of July.
2205. Settlement by personal representative on death of collector.
2206. What receipts for special taxes must specify.
2207. Special taxes; how kept and paid over.
2208. How special taxes kept and disbursed by treasurer.
2209. How account of special taxes closed by treasurer.

As amended,
Mar. 5,
1901, p.
281, § 15.

2169. (4003) (533) **Appointments by collector, and notice thereof.**—The tax collector shall attend at a voting place in each election precinct in the county, once in each year, from eight o'clock in the morning until four o'clock in the afternoon, for the purpose of collecting the taxes of such precincts, and of the time and purpose of such appointments he shall give at least thirty days' notice, by publication in some newspaper, if one is published in the county, and by bills posted at five or more public places in each election precinct in the county, and shall keep his office open at the courthouse from the first day of October until the first day of May following,

Collecting, Reporting and Paying Over Taxes.

and in counties having fifty thousand or more inhabitants he shall keep his office open all the year round, and need not make or attend any appointments.

2170. (4004) (534) Effect of collector's failure to attend appointments; new appointments.—If the collector fails to fill either of such appointments in any precinct, he shall make, and, after like notice, fill a new appointment; and failing to do so, he shall forfeit the fee allowed him for making demand on any taxpayer in such precinct who may become delinquent, for the taxes due by him, and who attended and was disappointed by the non-attendance of the collector at such original appointment.

2171. (4006) (536) Demand upon delinquent taxpayers.—After the first day of January the collector must make a personal demand, in writing, upon delinquent taxpayers, or their agents charged with the duty of paying their taxes, wherever they may be found, for the amount of their taxes and fees; and when unable to find them, he shall leave such demand at their places of business or residence; and it shall be the duty of such delinquents forthwith to pay the taxes and fees assessed and charged against them. But a failure to comply with the requirements of this section shall not invalidate the title to any property sold for taxes.

2172. (4007) (537) Payment of taxes.—It shall be the duty of the taxpayers in each precinct to meet the tax collector at one of his appointments therein, and then pay to him their taxes; but if from any cause such payment is not made at appointment, it may be made at any time before the taxes become delinquent, without incurring any penalty for failing to then make such payment; but if the taxes are paid after they have become delinquent, the taxpayer shall also pay all costs, fees, and charges, if any, that may at the time of payment have lawfully accrued, and it shall be the duty of the tax collector to make publication by three weekly insertions in some newspaper published in the county, and if there be no newspaper published in the county, by posting notices at the courthouse door and four other public places in the county, of the time when the taxes become delinquent; such publications, when published in a newspaper, shall be completed thirty days before the taxes become delinquent, and when given by posting notices, shall be posted thirty days before the taxes become delinquent.

As amended,
Feb.
22, 1890,
p. 52, § 1.

(Feb. 17, 1885, p. 21, § 10.) **Taxes constitute a legal liability on the taxpayer, which may be enforced by action at law.**—Perry Co. v. Railroad Co., 58 Ala. 546; State v. Fleming, 112 Ala. 179 (20 So. 846). **Repeal law under which taxes levied and assessed does not affect liability of taxpayer.**—State v. Sloss, 83 Ala. 93 (3 So. 745).

Collecting, Reporting and Paying Over Taxes.

2173. (4008) Interest on taxes after becoming delinquent.—All taxes, after becoming delinquent, bear interest at the rate of eight per cent per annum; and such interest must be added to and collected as part of the taxes, and reported in such manner as the state auditor may prescribe.

(Feb. 18, 1895, p. 1198, § 38; Feb. 18, 1897, p. 1489, § 27.)

2174. (4009) (538) Receipt of collector to taxpayer.—Upon the payment of taxes, and of fees and costs, if any, assessed and charged against him, by any taxpayer, the collector shall give a receipt therefor, from the stub-book mentioned in the next section, showing the name of the taxpayer, the date of the payment, and stating separately the amounts of the state tax on real estate, state tax on personal property, special tax, if any, specifying the purpose for which it is levied; county tax on real estate, county tax on personal property; special county tax, if any, specifying the purpose for which it is levied, and, if any interest has accrued, stating separately the amounts thereof on state tax, special state tax, county tax, special county tax, and stating separately the amounts of assessor's and collector's fees and other costs, if any; and stating the aggregate amount of all taxes, interest, fees, and costs collected; and such receipt shall be prima facie evidence that such taxpayer has paid all his state and county taxes, for that year, on the real and personal property, and other subjects of taxation contained in his assessment list, and all fees and costs mentioned in such receipt.

2175. (4010) (539) Stub-book of receipts kept by collector; delivery and production compelled by commissioners.—The collector shall keep a stub-book, or books, of receipts for each tax year, from which all receipts given to taxpayers must be taken; and upon payment by any taxpayers, the collector shall enter on the stub from which the receipt is taken the name of such taxpayer, the date of payment, and the several amounts of taxes, interest, and costs, and the aggregate amount thereof, as specified in the receipt prescribed by the preceding section; and such stub and the receipt taken therefrom shall bear the same number and correspond in all respects. Such stub-book, or books, at the end of the tax year, shall be delivered by the collector to the judge of probate, and the production thereof by the collector may be compelled by the court of county commissioners, at any time before the delivery thereof to the judge of probate.

(Feb. 17, 1885, p. 21, § 58.)—*Britton v. State*, 77 Ala. 202; *Jackson Co. v. Gullatt*, 84 Ala. 243 (3 So. 906).

2176. (4011) (540) Sale of personal property; no redemption allowed; payment before sale.—After the first day of

Collecting, Reporting and Paying Over Taxes.

January of each year the tax collector must proceed, without delay, to levy upon any personal property of delinquent taxpayers for the payment of their taxes, and, after having first given ten days' notice of the time and place of sale, with a description of the property to be sold, by posting the same at three or more public places in the precinct of the residence of such delinquent, either at the time of assessment or of the levy, or, if he is a non-resident of the county, in the precinct in which the levy was made, he must sell the same, or so much thereof as may be necessary to satisfy the taxes, fees, and expenses of sale, including expenses of keeping the property and moving the same to place of sale, in front of the courthouse of the county, or at the voting place, or, in case the amount of the taxes does not exceed five dollars, at any other place in the precinct in which such notice was posted, at public outcry to the highest bidder for cash; and the property so sold shall not be subject to redemption. For making such sale the collector shall be allowed a fee of one dollar, to be collected out of the property. But such taxpayer may, at any time before the sale, pay the taxes, fees, and expenses, including the collector's fee for the sale, the same as if it had been made, and thereby discharge the levy.

(Aikin's Digest, p. 414, § 35; Feb. 17, 1885, p. 21, § 62.) Shares of stock in corporation; liability to levy and sale for taxes.—*Kennedy v. Mary Lee Co.*, 93 Ala. 494 (9 So. 608). Liability of after-acquired property to levy and sale.—*Solomon v. Willis*, 89 Ala. 596 (7 So. 160). Personal property assessed for taxes, lien on; when notice of sale compliance with statute.—*Rodgers v. Gaines*, 73 Ala. 218.

2177. (4012) (541) Application of proceeds of sale; other levies and sales authorized.—The proceeds arising from such sale shall be applied to the payment of the expenses of the sale, and of the taxes and fees due from such taxpayer, and any balance remaining shall be paid to the owner of the property, if present at the sale; if not present, or if present and he refuses to receive the same, the collector shall deposit such balance with the county treasurer; or, if there be no county treasurer, with the judge of probate, taking a receipt therefor, and the same shall be kept as a special fund; and whenever such owner shall apply to the collector for such balance, the collector shall deliver to him the receipt therefor, and upon presentation thereof by such owner, the officer with whom such deposit was made shall pay to him the amount expressed in the receipt. But if such excess is not called for in three years after such sale, by the person entitled to receive the same, upon the order of the commissioners' court or board of revenue, stating the case or cases in which such excess was paid, together with a description of the property sold, when

Collecting, Reporting and Paying Over Taxes.

sold, and the amount of such excess, the county treasurer shall pass such excess of money to the credit of the general fund of the county, and make record of the same on his books, and such money shall thereafter be treated as a part of the general fund of the county.

2178. (4013) (542) No property exempt from sale.—No property, whether exempt by law from taxation or not, shall be exempt from levy and sale for the payment of taxes and the fees and charges lawfully incurred in assessing and collecting the same.

(Feb. 17, 1885, p. 21, § 62.)—Solomon v. Willis, 89 Ala. 596 (7 So. 160).

2179. (4014) (543) Collection by garnishment; collector to ascertain persons indebted to taxpayer.—If the collector ascertains, or has just cause to believe that any person is indebted to, or has in his possession, or under his control, any money, property, or choses in action belonging to any delinquent taxpayer in his county, he shall forthwith serve upon such person a notice in writing to appear before some court of the county having jurisdiction of the amount involved, naming the court, to answer as garnishee, and under oath, whether he was indebted to such taxpayer at the time of the service of the notice, or at the time of making his answer, or whether he will be indebted to him by any contract then existing, and if so, the amount of such indebtedness; and whether he has in his possession, or under his control, any and what money, property, or choses in action belonging to such taxpayer; and in such notice he shall state the amount of the taxes and fees due from such taxpayer. He shall also forthwith give such taxpayer, if in the county, written notice of the service of such garnishment; and the garnishment and notice he shall, without delay, return executed to the court before which the garnishee is cited to appear. And it shall be the duty of the collector, as far as by diligent inquiry he can, to ascertain what persons are indebted to or have in their possession any money, property, or choses in action belonging to any delinquent taxpayer.

2180. (4015) (544) Proceedings on garnishment.—Such proceedings shall be conducted in the name of the state; and if the notice served on the garnishee is returnable before a justice of the peace, the garnishee must answer within three days after service; if before the circuit court or court having like jurisdiction, he must answer within the first three days of the term next thereafter, if service was made upon him ten days before the commencement of the term; but if not, within ten days after service, if the court is in session, at the

Collecting, Reporting and Paying Over Taxes.

second term next thereafter; and thereupon, or in event of a failure to answer, such proceedings and judgment may be had as in cases of garnishments on judgments.

2181. (4016) (545) Costs in such proceedings.—If the garnishment is returnable before a justice of the peace, the collector shall be entitled to one dollar, and the justice to two dollars, for their services in each case; if before the circuit court, or court having like jurisdiction, the clerk and sheriff shall be entitled to the same fees as in cases of garnishments on judgments, and the collector to two dollars.

2182. (4017) Shares in private corporations subject to levy and sale for taxes of owner; procedure.—The shares or interests in the stock of private corporations are subject to levy and sale for the payment of all taxes assessed against the owner thereof. To accomplish such levy and sale, the tax collector shall make out and certify to the judge of probate a bill against such owner for the amount of the taxes due from him and any fees due the assessor or collector, and upon the approval thereof by the judge of probate, in writing indorsed thereon, such bills shall operate as a fieri facias, and thereupon such shares and interests may be, by the tax collector or his deputy, levied upon and sold for the payment of such taxes and fees and all costs, without having or obtaining the possession of such stock, by indorsement on the bill approved by the judge of probate, stating the number of shares or other interests on which the levy is made, and giving notice thereof to the custodian of the books of transfer of such corporation, if he be known, and reside within the state, or if he be unknown, or if he reside without the state, by posting at the courthouse door of the county, and by publication for three successive weeks, in a newspaper published at or near the principal place of business of such corporation; all transfers of the stock made in good faith, for a valuable consideration, before notice of the levy is given, are valid and operative, and must prevail over the levy. The levy and the sale thereunder may be made in the county of the residence of the taxpayer, or in the county in which the corporation has its principal place of business; and on making the sale, the tax collector must make to the purchaser a transfer in writing; and the purchaser has the right to require the proper officer to register such transfer on the books of the corporation, and, with or without such registry, is entitled to all the rights and interest of the taxpayer as whose property such stock was sold.

(Feb. 18, 1897, p. 1489, § 29.) Formerly such shares were not subject to levy and sale for taxes.—*Kennedy v. Mary Lee Coal & E. Co.*, 93 Ala. 494 (9 So. 608).

Collecting, Reporting and Paying Over Taxes.

2183. (4018) (546) When real estate may be sold for taxes.—When no personal property can be found out of which the taxes of any delinquent taxpayer can be collected, or an amount insufficient to fully satisfy such taxes, the real estate of such taxpayer, or the real estate upon which such taxes are a lien, may be sold for the payment thereof, or of the balance due thereon, in the manner hereinafter in this chapter prescribed. But the failure of the tax collector to so exhaust such personal property shall not invalidate the sale of any real estate, but it shall render the tax collector and the sureties on his official bond liable for the cost, which he shall be put to in redeeming such real estate, over and above the amount of the taxes, for the collection of which the sale is made, and interest thereon provided for in case of such redemption.

(Feb. 18, 1897, p. 1489, § 30; Feb. 17, 1885, p. 21, § 63.)

As amend-
ed, Mar. 4,
1908, p.
192.

2184. (4019) (547) List of errors and insolvents and litigated taxes reported to the commissioners.—The tax collector must, in each year, report on oath to the court of county commissioners, at the June term thereof, a list of the persons from whom the taxes assessed against them cannot be collected, with the amount of the taxes, state and county, assessed against each, which shall be termed "list of insolvents," and a list of such persons as have been overassessed, or wrongfully assessed, with the taxes, state and county, assessed against each, which shall be termed "list of errors in assessments," and any taxes which may be in litigation, in order that the same may be passed upon and determined by the court.

(Feb. 28, 1887, p. 3, § 20; Feb. 17, 1885, p. 21, § 65.) *Treasurer v. Hugins*, 8 Ala. 440; *Perry Co. v. Railroad Co.*, 58 Ala. 546; *State v. McBride*, 76 Ala. 51.

2185. (4020) (548) Duty of commissioners as to such lists; credits allowed collector.—At the same term, such court shall make a careful and rigid examination of such lists, and of the facts pertaining thereto, and shall ascertain and determine what taxes contained in the list of insolvents the collector could not, by the use of due diligence, have collected, and what taxes contained in the list of errors in assessment should not have been collected by him, by reason of such errors, and shall correct such lists accordingly, and shall credit the collector with the county taxes contained in such lists as corrected; and shall ascertain what taxes are in litigation and credit the collector with the county taxes so in litigation.

2186. (4021) Presiding officer to certify lists to auditor in ten days.—Within ten days after the adjournment of the term of the court at which such allowances were made, the presiding officer of the court must certify to the state auditor, sepa-

Collecting, Reporting and Paying Over Taxes.

rately, the itemized lists, as ascertained and allowed by the court, of insolvent taxes, errors in assessment and taxes in litigation, showing, in each instance, the name of the taxpayer and the amounts of state taxes and special state taxes charged against him; and, in the case of taxes in litigation, showing also when and in what court suit was brought; and if such lists are found to be correct, the state auditor must, upon the final settlement of the collector, allow him credit for the amounts of state taxes and special state taxes shown by such lists.

2187. (4022) New accounts to be opened against collector for insolvencies and taxes in litigation.—Upon the allowance and credit to the tax collector of insolvent taxes and taxes in litigation, as provided in the two preceding sections, the court shall, in behalf of the county, state a new account against the collector for the amounts of insolvent county taxes and county taxes in litigation so allowed and credited; and upon the allowance by the state auditor of the credits for insolvent state taxes and state taxes in litigation, as provided in the preceding section, a new account must be stated by the state auditor against the collector for the amounts of insolvent state taxes and state taxes in litigation so allowed and credited; and the collector shall remain charged with such sums until the liability is discharged, as hereinafter provided.

(Feb. 28, 1887, p. 3, §§ 11, 40.)—Lott v. Mobile Co., 79 Ala. 69; Perry Co. v. Railroad Co., 58 Ala. 546.

2188. (4023) Insolvent lists to be delivered to collector within twenty days from adjournment of court.—Within twenty days after such allowances are made, the presiding officer of such court shall, from the list of insolvent taxes so allowed, make out and deliver to the collector a separate list for each precinct in the county, showing the name of each insolvent taxpayer, and the amounts of state and county taxes, and costs, if any, due from him; and such collector shall receipt for such lists.

As amended, Mar. 4, 1907, p. 198.

2189. (4024) Duty of collector to collect and report such insolvent taxes.—It is the duty of the collector to proceed with all diligence to collect such insolvent taxes and to make monthly reports, payments, and settlements thereof, with the state auditor and county treasurer, as he is authorized and required to do in the collection of taxes which have not been declared insolvent; and he is entitled to the same commissions upon such insolvent taxes collected by him as are allowed by law upon the same character of taxes which have not been declared insolvent.

2190. (4025) Collector must make final report of uncollected balances of insolvent and litigated taxes; credits therefor.—

Collecting, Reporting and Paying Over Taxes.

At the June term of the court held during the year next succeeding, the collector must make final report of the uncollected balance of such insolvent taxes, showing the name of every insolvent taxpayer from whom he has been unable to collect, and the amounts of state and county taxes due from him, and an itemized report of the taxes still in litigation; and thereupon, if the court is satisfied that the collector has made diligent effort to collect such taxes, the court shall make an order allowing the collector credit for such insolvent taxes as he has been unable to collect and for taxes remaining in litigation, and shall credit him with all county taxes included therein; and the presiding officer shall certify the same to the state auditor, who shall thereupon credit the collector with the state taxes included in the lists so allowed. The account for taxes remaining in litigation shall thereafter be kept in such manner as the state auditor may prescribe.

2191. (4026) Collector must report on retiring from office; liability transferred to successor.—If the collector, while charged with the collection of insolvent taxes and taxes in litigation, shall retire from office before the expiration of the time allowed him to make such collections, he shall make, to the next term of the court thereafter, the report required by the preceding section; whereupon allowances must be made and certified and credits entered as provided in said section; but his successor in office must be charged with the several amounts so credited to the retiring collector, and is charged with the duty of collecting, reporting, and paying the same, and making final report of uncollected balances in all respects as if no change in office had been made.

2192. (4027) (550) Collection of taxes from taxpayer about to remove from county.—It shall be the duty of the tax collector, whenever, upon information or otherwise, he has good reason to believe that any person owing taxes, whether due or not, is about to leave or remove his property from the county, and thereby the collection of such taxes is endangered, to make out and certify to the judge of probate a bill against such person for the amount of such taxes and any fees due the assessor or collector; and upon the approval thereof by the judge of probate, in writing, indorsed thereon, such bill shall operate as a writ of fieri facias, which the collector is authorized to execute by levy and sale, in the same manner as sheriffs are authorized to execute such writs when issued out of the circuit court.

(Feb. 17, 1885, p. 21, § 66.)

2193. (4028) (551) Liability of collector when notified of person about to leave county.—On the failure of the collector

Collecting, Reporting and Paying Over Taxes.

to act when notified that any person assessed is about to leave the county, he shall be liable for the amount of the taxes assessed against such person.

2194. (4029) Collection of taxes from person who has removed from the county.—When the collector has information that any person owing taxes in his county, whether due or not, has removed to another county, he shall make out and certify to the judge of probate a bill against such person and procure the approval thereof by the judge of probate in all respects as provided in the second preceding section, and such bill shall operate as a writ of fieri facias; and the same may be executed by the collector, if personal property of the taxpayer be found in his county, or may be by such collector forwarded to the collector of the county to which the taxpayer has removed, or to the collector of any county in which the taxpayer has any personal property; and the collector of such other county, on receipt of the writ, must proceed to execute the same as if issued in his county. He shall remit collections thereon to the collector sending him the writ, and is liable on his bond for any neglect of duty under this section.

2195. (4030) Escaped taxes assessed and collected by collector; his powers in such cases.—It is the duty of the collector, when engaged in the collection of taxes for any year, if he discovers that any person or property within his county has not been assessed by the assessor with the tax or taxes lawfully chargeable to such person or property for that year, or any preceding year, not more than five years before that time, forthwith to assess and collect the taxes due on the same, and in writing notify the assessor of the fact so discovered in order that proper assessment of unassessed taxes may be made; and the collector has the same authority to administer oaths and propound questions as the assessor has, and any party failing or refusing to answer such questions, or to give in his property, shall be liable to the same penalties as provided in cases where parties fail or refuse to give in their property to the assessor, or answer the questions required to be propounded by the assessor; provided, that in such assessments of escaped taxes, the taxpayer, on giving notice to the tax collector, shall have the right to have his assessment passed on by the court of county commissioners, and such assessment modified, allowed, or rejected, as the evidence adduced to said court shall require.

As amended, Mar. 5, 1901, p. 222, § 16.

(Feb. 28, 1887, p. 3, § 21.) Assessment and collection of poll taxes.—*Francis v. Peevey*, 132 Ala. 58 (31 So. 372). Assessment of escaped taxes; notice and waiver of defects therein.—*Calhoun Co. v. Woodstock Iron Co.*, 82 Ala. 151 (2 So. 132). *Perry Co. v. Railroad Co.*, 58 Ala. 546; *Lehman v. Robinson*, 59 Ala. 219.

Collecting, Reporting and Paying Over Taxes.

2196. (4031) Collector must report escaped taxes to judge of probate; entry; abstract.—Whenever the collector assesses and collects any escaped taxes, he shall forthwith report the same to the judge of probate, who shall enter such assessment in the back part of the book of assessments, and shall certify the amount collected and the items of property so assessed in the form of an abstract to the state auditor, and the collector is chargeable with the same to the amount of taxes due the state and county, respectively.

(r.o.c.) **2197. (4032) (553) Separate account of poll tax paid by each race kept.**—The tax collector shall keep a separate account of the amount of the poll tax paid by persons of each race in each township or separate school district.

2198. (4033) Poll tax reported and paid into state treasury monthly; duplicate reports to county and state superintendents.—The collector must report and pay into the state treasury monthly, as other taxes are reported and paid in, all poll taxes collected by him; and he shall make a report thereof in duplicate, showing the amount due each race in each township or separate school district, one of which reports he shall furnish to the county superintendent of education of his county, and the other he shall forward to the superintendent of education.

2199. (4034) Annual consolidated report of poll tax to be made to county and state superintendents.—The collector must, within ten days after making his final settlement with the state auditor, make, to the county superintendent and to the superintendent of education each, a consolidated report of the amount of poll tax collected by him during the year and paid into the state treasury, showing by township or other separate school district the amounts collected from each race separately.

(r.o.c.) **2200. (4035) (555) Monthly reports and payments to be made by collector.**—The tax collector, within the first three business days of November, in each year, and within the first three business days of each month thereafter until he makes his final settlement for such year, shall make, under oath, to the county treasurer, or to the judge of probate, if there be no county treasurer in the county, an itemized report in writing, a copy of which shall be, by the collector, forwarded to the state auditor, setting forth separately the taxes collected by him for the state and county during the preceding month and up to the date of such report, subsequent to his preceding report; and within five days after making such report, he must pay to the state treasurer all state taxes then due from him to the state, and must then also pay to the county treasurer all county taxes

Collecting, Reporting and Paying Over Taxes.

then due from him to the county, by him before that time collected. The county treasurer shall give to the tax collector a receipt in duplicate for such monthly report, one of which duplicates shall be promptly forwarded to the state auditor by the tax collector.

2201. (4036) (556) Monthly report by county treasurer or judge of probate.—The officer receiving such report must, within three days thereafter, report in writing to the state auditor the amount of state taxes collected by the collector, as shown by his report; and if the collector fails to make his report within the time required by law, such officer must, within three days thereafter, report that fact to the state auditor; and the state auditor shall promptly report to the governor any failure on the part of a collector to comply with the provisions of the preceding section.

2202. (4037) (557) Collector must account to auditor in January and April; allowance for commissions, etc.—The tax collector must also, on or before the tenth day of January and the tenth day of April in each year, account to the state auditor, under oath, for the amount of taxes on or before the first days of January and April, respectively, by him collected for the current year, and upon such accounting, shall be allowed, by the state auditor, the amount then due him for commissions, fees, expenses, and outlays, in the discharge of his duties, as provided by law.

2203. (4038) (558) Final settlement to be made with the auditor on or before the first day of July.—On or before the first day of July, in each year, the tax collector must make final settlement, under oath, with the state auditor, of all matters pertaining to the office of tax collector, and pay over to the state treasurer the balance which may be found due from him for amount of taxes with which he is chargeable under the laws of the state; and at that time he must also account to the state auditor and pay over to the state treasurer all money received by him from the sale of lands and other property which may have been sold for payment of taxes, and also account to the state auditor for all the lands bought in by the state. He must also report, under oath, to the state auditor, and pay over to the state treasurer, all escaped taxes assessed and collected by him.

(Feb. 28, 1887, p. 3, § 25; Feb. 17, 1885, p. 21, § 76.) Liability of collector for interest.—*State v. Lott*, 69 Ala. 147. Power of auditor to restate account.—*State v. Brewer*, 61 Ala. 318.

2204. (4039) Final settlement to be made with county treasurer on or before the first day of July.—The collector must also, on or before the first day of July in each year, make final

Collecting, Reporting and Paying Over Taxes.

settlement, under oath, with the county treasurer for all the county taxes, which have been assessed and levied for the use of the county, and then pay over to the county treasurer the balance of the county tax due from him as such tax collector, and not paid over prior to that date, according to the tax books in the office of the judge of probate.

2205. (4041) (561) Settlement by personal representative on death of collector.—On the death of any tax collector, his personal representative, general or special, must, out of the first moneys that come into his hands belonging to the estate of his decedent, and as soon as the same come into his hands, pay to the proper state and county officers the amount of public funds collected by such decedent, not paid over by him at the time of his death, and must make settlement with such officers of any unsettled accounts of such decedent with the state and county touching the affairs of his office, as soon as practicable, and not later than the time when tax collectors are required to make final settlements.

2206. (4042) (562) What receipts for special taxes must specify.—Whenever any tax collector collects any special taxes, he shall specify in the receipts given to taxpayers the amount of such taxes, and the purpose for which they were levied and collected.

2207. (4043) (563) Special taxes; how kept and paid over.—Such special taxes, when collected, must be paid over by him to the county treasurer, and be kept by him as a distinct fund.

2208. (4044) (564) How special taxes kept and disbursed by treasurer.—The county treasurer receiving such special taxes shall keep the same separate and distinct from all other public funds, and shall keep a separate account thereof, and shall promptly disburse the same upon orders drawn thereon by the legally authorized authority.

2209. (4045) (565) How account of special taxes closed by treasurer.—When the object for which such special taxes were levied and collected shall have been accomplished, or, for any other reason, the same are no longer required for the purpose for which they were levied, the parties charged with the administration or application thereof shall notify the treasurer, who shall thereupon close the account of such taxes, and transfer any balance remaining to the account of the general fund of the county.

ARTICLE 10.

STATE TAX COMMISSION. 2210-2267.

SECTION.

- 2210. Commission created.
- 2211. Commissioners named.
- 2212. Appointment and term of office of commission.
- 2213. Vacancy in office; how filled.
- 2214. Qualification for office of commissioner.
- 2215. Special oath of commissioner.
- 2216. Salary of commissioner.
- 2217. Meeting and sessions of commission; notice to county commissioners thereof.
- 2218. Secretary, engineers, and other assistants, employment and compensation of; how paid.
- 2219. Office at capitol; fixtures and supplies therefor; how furnished and paid for.
- 2220. Expenses of commission, secretary, and other assistants; how paid.
- 2221. Employes subject to commission and removal by.
- 2222. Limit of appropriation for expenses, etc.
- 2223. Powers, authority, and duty of commission.
- 2224. Oath to witnesses.
- 2225. Witnesses failing or refusing to testify, or to produce books and records, compelled so to do.
- 2226. Evidence tending to criminate witness; how provided against.
- 2227. Fees, mileage, and compensation of witnesses.
- 2228. Thirty days' notice given to owner of reassessment; how served or given.
- 2229. Appeal by owner from judgments or assessments.
- 2230. Appeals to supreme court.
- 2231. Fees of witnesses.
- 2232. Assessment once fixed; property assessed at no less valuation.
- 2233. Conclusiveness of findings, judgments, assessments, etc.
- 2234. Appeal from judgments, etc., operate as supersedeas.
- 2235. Record of proceeding; publication and circulation of.
- 2236. County tax commissioners; appointment of.

SECTION.

- 2237. County tax commissioner; vacancy in office; how filled.
- 2238. County tax commissioner; removal of.
- 2239. County tax commissioner; powers and duties of.
- 2240. Attorney-general solicitor, and duties as to.
- 2241. Special counsel employed by governor.
- 2242. Compensation of tax commissioners.
- 2243. County tax commissioner; bond of.
- 2244. Special duties of county tax commissioners as to escaped and delinquent taxes.
- 2245. Duty as to license and privilege taxes.
- 2246. County officers must co-operate with tax commissioners, and allow use and inspection of their books and offices.
- 2247. County officers guilty of contempt for failure to perform duties.
- 2248. Supplemental assessments by commissioners.
- 2249. Fees and compensation for supplemental assessments.
- 2250. Under-valuation of assessments; duties of commissioner as to.
- 2251. Fees and compensation as to under-valuation assessments.
- 2252. Appeals.
- 2253. Commissioners; powers of, to administer oath; question witnesses.
- 2254. Notice and order served by deputy.
- 2255. Duties of county tax commissioners to attend court in cases against delinquent taxpayers; to represent state; to examine tax books and make report to probate judge.
- 2256. Fees and compensation as to cases tried by court.
- 2257. Commissioners must get up evidence for state on appeals in tax proceedings.

TAXATION.
State Tax Commission.

SECTION.

2258. Duty of county tax commissioner to attend courts of equalization.
2259. Commissioners may assist municipalities.
2260. Escaped taxes; duties of county tax commissioners as to.
2261. Notice to owner of assessment.
2262. Notice, contents of.
2263. Case entered on docket by clerk of court.

SECTION.

2264. Case heard and determined by commissioners.
2265. Finding of court has force and effect of judgment at law, unless appealed within thirty days.
2266. Penalty of ten per cent added.
2267. Taxes, when collected, reported to probate judge, and by him certified to auditor.

Mar. 7,
1907, p.
372, § 1.
Ib., § 2.

2210. Commission created.—There is created a commission to be known as the state tax commission of Alabama.

2211. Commissioners named.—The state tax commission shall be composed of three commissioners, consisting of a chairman and two associate members, who shall be appointed by the governor and designated as chairman and associate members of the state tax commission of Alabama.

Ib.
(r. c. c.)

2212. Appointment and term of office of commission.—The chairman and associate members of the commission heretofore appointed shall serve for the term to expire on the first Monday after the second Tuesday in January, 1911, when their successors shall be appointed by the governor and shall hold office for four years and until their successors are appointed and qualified.

Ib.

2213. Vacancy in office; how filled.—In case of a vacancy in the commission, said vacancy shall be filled by appointment by the governor for the unexpired portion of the term in which such vacancy shall occur.

Ib., § 3.

2214. Qualification for office of commissioner.—The person to be appointed as a member of the state tax commission shall be a qualified elector, known to possess high character and knowledge of the general subject of taxation and matters pertaining thereto. No person appointed as a member of said commission shall hold any other office under the government of the United States or under any other state or of this state during his term of office. Each commissioner shall devote his entire time to the duties of the office, and shall not hold any position of trust or profit, or engage in any occupation or business, the duties or conduct of which shall interfere or be inconsistent with the duties he shall assume as said commissioner under this article, or serve on or under any committee of any political party in this state or in the United States.

Ib., § 4.

2215. Special oath of commissioner.—Each commissioner, before entering upon the discharge of the duties of his office, shall take, subscribe, and file with the secretary of state, the

State Tax Commission.

following special oath of office in addition to the general oath of office prescribed for public officers by the constitution of Alabama, viz.: "I, _____, do hereby solemnly swear that I will faithfully, impartially, rigidly, and truly perform all of the duties of the office of state tax commissioner, to which I have been appointed, and which I now assume, without fear or favor, bias, or thought of personal gain or advantage; but will always regard and enforce the duties and responsibilities of my office to the best and utmost of my ability, capacity, and power." This oath shall be taken before any qualified officer authorized to administer oaths in the state of Alabama, and thereupon be filed with the secretary of state.

2216. Salary of commissioner.—Each of said state tax commissioners shall receive an annual salary of twenty-four hundred dollars, except the chairman of said commission, who shall receive an annual salary of three thousand dollars. Such salary shall be paid out of the state treasury in the same manner as salaries of other state officers are paid. Mar. 7,
1907, p.
372, § 5.

2217. Meeting and sessions of commission; notice to county commissioners thereof.—A majority of the commission must provide by resolution for regular meetings, and must meet and sit in session for the conduct of investigations and making, revising, reassessing or assessing property at the county seat of every county, wherein the property affected is situated, except as to taxes levied against foreign corporations. All meetings shall be held at the capitol, unless the commission, upon written petition being filed, shall decide otherwise, and the tax commission shall notify the boards of revenue or county commissioners of the date when they will sit or meet in the county, and such boards of revenue or county commissioners shall and must sit with and advise the tax commission as to local conditions, concerning the taxable values in the county, but this shall not apply to corporations which have assessable property located in more than one county in the state, but the county boards or commissioners shall have no vote in the determination of values. ib., § 6.

2218. Secretary, engineers, and other assistants; employment and compensation of; how paid.—The commission may appoint a secretary at a salary of not more than eighteen hundred dollars per annum, which salary shall be paid in the same manner as salaries of other state officials are paid. The commission may employ such other persons as experts, engineers, stenographers, and assistants as may be necessary to perform the duties which may be required of the state tax commission, and the commission shall fix the compensation of other persons upon the approval of the governor. The secretary of the com- ib., § 7.

1911-550

mission shall keep full and correct minutes and records of all hearings, transactions, and proceedings of the commission, and shall perform such other duties as may be required of him by law or by the commission from time to time. The commission may make all needful rules not inconsistent with law for the orderly, efficient, and methodical performance of its duties and for conducting hearings and other proceedings before it. Any persons employed by the commission as experts, stenographers, engineers, or assistants, shall be paid out of the state treasury upon a warrant drawn by the state auditor on a certificate or voucher of the chairman of the commission approved by the governor and presented to the state treasurer, but the amount expended therefor shall not exceed three thousand dollars per annum.

Mar. 7,
1907, p.
372, § 8.

2219. Office at capitol; fixtures and supplies therefor; how furnished and paid for.—The state tax commission shall have, maintain, and keep its office at the state capitol at Montgomery, and shall be provided with suitable rooms, necessary office furniture, supplies, stationery, books, periodicals, and maps, and all expenses of the commission incurred for such purposes in the discharge of its duties and the administration of its functions, shall be audited and paid out of the state treasury, as provided in the preceding section for the payment of employees of the commission, provided the amount expended for this purpose shall not exceed one thousand dollars per annum.

1b.

2220. Expenses of commission; secretary, and other assistants; how paid.—The commissioners, the secretary of the commission, and all stenographers, engineers, experts, and assistants, who may be employed by the commission, shall be entitled to receive their actual necessary expenses while traveling or acting on the business of the commission, not exceeding five thousand dollars per annum, and such expenses shall be itemized and sworn to by the person who incurs the same, and shall be approved by the chairman of the commission, or by a majority of the members thereof, and shall be paid out of the state treasury, as provided in section 2218 of this article for the payment of the salaries and expenses of the commission.

1b.

2221. Employes subject to commission, and removal by.—All employes of the commission shall be subject to the orders of the commission, and may be removed by order of the commission for cause satisfactory to said commission.

1b.

2222. Limit of appropriation for expenses, etc.—The entire appropriation for the commission, together with every item of expense allowed therefor, shall not exceed in any one year the total sum of twenty-five thousand dollars, which sum, or as much thereof as may be necessary, is hereby appropriated annually.

State Tax Commission.

2223. Powers, authority, and duty of commission.—It shall be the duty of said tax commission, and it shall have power and authority—

1. To have and exercise general and complete supervision over the assessment and collection of taxes and the enforcement of the tax laws of the state, and over the several county tax assessors, tax collectors, and county tax commissioners in the several counties of the state charged with the duties of assessing or collecting escaped, delinquent, and back taxes and licenses in the several counties of the state and over each and every state and county official charged with the duty of assessing, collecting, or enforcing the payment of taxes, and licenses, to the state or to any county in the state, to the end that all assessments on property, privileges, and franchises in the state shall be made in exact proportion to the just and true value thereof in substantial compliance with the law. Mar. 7,
1907, p.
372, § 9.

2. To confer with, advise, and direct all assessors, collectors of state and county taxes, and county tax commissioners, as to their duty under the laws of this state.

3. To direct actions, prosecutions, and proceedings to be instituted to enforce the laws of this state relating to penalties, forfeitures, liabilities, and punishment of public officers and officers or agents or corporations, companies, or associations, or persons, for failure or neglect to comply with the provisions of the law governing the return, assessment, and taxation of property, privileges, and franchises in this state, and to cause complaints, information, action, or prosecutions to be made or instituted against any tax assessor or tax collector in the proper court, or to the proper judge of any court, for the removal from office of such officers for official misconduct or neglect of duty.

4. To require county or circuit solicitors, and the attorney-general of the state, to commence and prosecute actions, proceedings, and prosecutions for penalties, forfeitures, impeachments, and punishments for violation of the laws of the state in respect to the assessments and collection of taxes and the enforcement of taxation of property, privileges, and franchises, subject to taxation, within the respective jurisdiction or spheres of official duty of said officers.

5. To require any county officer or other public officer in the state to report information as to the assessment of property, collection of taxes, receipts from licenses, and other sources, methods of taxation, values of franchises or intangible property or assets, subject to taxation, and such other information as may be needful in the work of the state tax commission, in such form and upon such blanks as the commission may prescribe.

6. To require individuals, partnerships, companies, associations, and corporations, and the agents, officers, and employes thereof, to furnish information concerning their capital, funded or otherwise, current assets and liabilities, value of franchises, value of property, earnings, operating and other expenses, bonds, deeds, conduct of business, and all other facts, records, papers, documents, or other information of any kind demanded which may be needful in order to enable the commission to ascertain the value and relative burden to be borne by every kind of property in this state, but where a person, partnership, corporation, company, or association is not engaged in a business which is subject to a tax on gross receipts, or on capital employed in this state, or on franchise or on intangible property, the tax commission shall not inquire into, nor shall it require information as to the liabilities, earnings, profits, and loss, expenses, or conduct of business of such person, partnership, company, association, or corporation.

7. To summon witnesses to appear and give testimony, and to procure records, books, papers, documents, and all other information of any kind or character required relating to any matter which the commission shall have authority to investigate and determine. The witnesses may be summoned by subpoena issued by any member of the commission, or by the secretary thereof, in the name of the commission, directed to any sheriff of Alabama, and returnable to the commission, which subpoenas may be served in like manner as subpoenas issued out of any circuit court; and the several sheriffs shall receive the same fees for subpoenas served in civil cases, or the subpoenas may be served by registered mail, addressed to the witness. In either case the subpoenas must be served at least five days previous to the time named therein for the appearance of the witness. Subpoenas duces tecum to any witness to appear and produce any records, books, papers, or other documents, may be issued and served in like manner; provided, that no officer of any bank or banking institution shall be required to disclose to the tax commission or any of its agents or clerks, the deposits of its customers.

Mar. 7,
1907, p.
878, § 17.

Ib., § 9.

8. To cause the deposition of witnesses residing within or without the state to be taken upon such notice to the interested party, if any, as the commission may prescribe, in like manner as depositions of witnesses are taken in actions pending in the circuit court of the state, in any matter which the commission has authority to investigate or determine. The depositions shall be taken upon a commission to be issued by the state tax commission, or the secretary thereof, in the name of the commission, and returnable to the commission.

9. To visit the several counties in the state for the purpose

State Tax Commission.

of investigating the works and methods adopted by county assessors, collectors, county tax commissioners, or other officers or boards charged with the duty of assessing, collecting, determining, or adjusting the taxation of real and personal property in this state or in any county thereof; to examine carefully into all cases where evasions or violations of the law established for the assessment and collection of taxes on property are alleged, complained of, or discovered, and to ascertain wherein existing laws are defective, or are improperly or negligently administered, and to report the result of the investigation and the facts ascertained to the governor from time to time when required by him.

10. To investigate the tax systems of other states; to formulate and recommend such legislation as may be deemed expedient to prevent evasions of any laws of the state relating to taxation, and to secure just and equal taxation and improvements in the system of taxation in this state.

11. To consult and confer with the governor upon the subject of taxation and the administration of the laws in relation thereto, and the progress of the work of the commission, and to furnish the governor, from time to time, such information as he may require.

12. To transmit to the governor, thirty days before the meeting of the legislature, a written report showing all the taxable property in the state and the value of the same, in tabulated form, with recommendations for improvements in the system of taxation in the state, together with recommendations of such measures as the commission may formulate for the consideration of the legislature in regard thereto.

13. To assess, or cause to be assessed by the proper officer, any property subject to taxation, and to set aside and hold for naught any valuation or assessment of property made by any county officer within this state or by any board of revenue or court of county commissioners, or by any other officers authorized to make assessments, and to reassess or revalue said property whether the original valuation or assessment be made by the property owner or by any officer of the state or of any county, or board of revenue, or court of county commissioners of the several counties in this state, unless the valuation or assessment shall have been previously in the same tax year confirmed or determined by a court of record on appeal; and the commission may value and assess or reassess any property, tangible or intangible, subject to taxation in this state, without regard to any previous assessment or valuation, and may cause all its assessments, valuation, reassessments, or revaluation herein authorized, to be entered in the proper assessment books, or records or minutes of the several county officers, or of

the appropriate boards or tribunals of this state authorized to assess property or to determine the questions of assessments and taxation.

Mar. 7,
1907, p.
372, § 9.

2224. Oath to witnesses.—Oaths to witnesses in any matter under the investigation or consideration of the commission may be administered by any member of the commission or by the secretary thereof.

1b.

2225. Witnesses failing or refusing to testify or to produce books and records compelled so to do.—In case any witness shall fail or refuse to testify as to or in answer to any material question, or to produce any records, books, papers, or other documents in his custody or control, when required so to do, any circuit court or other court of like jurisdiction, or any judge thereof, upon the application of any member of the commission, shall issue an attachment for such witness and compel such witness to comply with the summons or to attend before the commission and produce such books, documents, papers, or records, and to give his testimony upon such matters as he may be lawfully interrogated about; and the court or the judge thereof, may punish such witness for contempt, as in cases of disobedience of a like subpoena issued from such court for the refusal to testify in any cause pending therein.

1b.

2226. Evidence tending to criminate witness; how provided against.—No witness shall be excused from attending or testifying, or from producing books, papers, records, accounts, and other documents before the commission, or in obedience to the subpoena issued by or in the name of the commission or any member thereof, on the ground or for the reason that the testimony, or evidence, documentary or otherwise, required of him, may tend to criminate him or subject him to a penalty or a forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence, documentary or otherwise, before the commission, or in obedience to its subpoena; but no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

1b.

2227. Fees, mileage, and compensation of witnesses.—Every witness who shall appear before the commission by its orders shall receive for his attendance the fees and mileage allowed by law for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses of the commission are audited and paid, upon the presentation of proper vouchers sworn to by such witness and approved by the chairman of the commission; but witnesses summoned by parties other than the commission

State Tax Commission.

shall be paid by the party or parties causing the witnesses to be summoned.

2228. Thirty days' notice given to owner of re-assessment; how served or given.—Mar. 7, 1907, p. 372, § 9. In every case where the state tax commission shall re-value or re-assess any property which has been previously valued or assessed for the same year by the county tax commissioner or the board of revenue or the court of county commissioners of the county in which the property is situated or subject to taxation, thirty days' notice shall first be given to the owner, or reputed owner, of the property before such assessment is entered of record on the assessment books or rolls, by personal notice or notice left at his dwelling, or by registered mail, and such notice shall describe the property and the assessment or valuation fixed by the commission and notify the owners to appear at a time specified therein before the commission at the courthouse of the county in which the property is situated and show cause why the assessment or re-assessment should not be made.

2229. Appeal by owner from judgments or assessments.—Ib. From the final determination or judgment of the commission as to said assessment or re-assessment the owner of the property may appeal within thirty days to the circuit court or court of like jurisdiction of the county in which said property is subject to taxation. The case on appeal shall be tried de novo, and shall have precedence over any other case.

2230. Appeals to supreme court.—Ib. From the judgment of the trial court an appeal may be taken by either party to the supreme court within sixty days from the rendition of the judgment.

2231. Fees of witnesses.—Ib. If the state is unsuccessful the defendant's witnesses, not to exceed five in number, shall receive the fees and mileage allowed by law for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses of the commission are audited and paid, upon proper vouchers sworn to by the witness and presented to the chairman of the commission.

2232. Assessment once fixed property assessed at no less valuation.—Ib. When any assessment has been made or valuation fixed by the tax commission, or by the judgment of any court of record, the property so assessed shall not be assessed at any less valuation, or for any less amount, for any succeeding year, if the property shall remain substantially in the same condition as to improvements, except by consent of the state tax commission.

Mar. 7,
1907, p.
372, § § 10
and 11.

2233. Conclusiveness of findings, judgments, assessments, etc.—The findings, judgments, assessments, valuations, and orders of the tax commission shall be conclusive upon every public officer in the State of Alabama who is now or may hereafter be charged with the duty of assessing or collecting taxes, or enforcing the assessment or collection of the same, and upon every person, partnership, association, company, or corporation interested therein, and upon any property, privilege, or franchise of any person, partnership, association, company, or corporation unless and until the findings, judgments, assessments, valuations, or orders shall be corrected, reversed, altered, changed, set aside, or restrained by decree or judgment of a court of competent jurisdiction and power.

Ib., § 10.

2234. Appeals from judgments, etc., operate as supersedeas.—In case of an appeal from any finding, judgment, assessment, valuation, and orders of the state tax commission, the appeal shall operate as a supersedeas of said finding, judgment, assessment, valuation, and orders of the state tax commission.

Ib., § 12.

2235. Record of proceeding; publication and circulation of.—The commission shall require the secretary to keep on file in his office as a public record the orders and proceedings of the commission, and the commission shall, upon the approval of the governor, print and cause to be circulated from time to time such information as to its proceedings and the general matter of taxation in this state as it may deem proper and useful, and the expenses of publication and circulation shall be paid out of the state treasury in the manner provided in this article as to other expenses incurred by it.

Ib., § 13.

2236. County tax commissioners; appointment of.—The state tax commission shall appoint, with the approval of the governor, one county tax commissioner for every county of this state. Provided, however, that the present county tax commissioners shall be continued in office for the term for which they were appointed unless sooner removed in the manner herein provided.

Ib.

2237. County tax commissioner; vacancy in office; how filled.—In case of any vacancy in the office of county tax commissioner the vacancy shall be filled by appointment by the state tax commission for the unexpired term, with the approval of the governor.

Ib.

2238. County tax commissioner; removal of.—Any county tax commissioner may be removed by the governor at his discretion, or by the state tax commission, with the approval of the governor, for any inefficiency or malfeasance in office, and

State Tax Commission.

of the sufficiency of the ground or cause of removal the governor shall be the sole judge.

2239. County tax commissioner; powers and duties of.—The county tax commissioners shall have and exercise all the powers which are now conferred or which may hereafter be conferred upon them by law. Mar. 7, 1907, p. 372, § 18.

2240. Attorney-general; solicitor, and duties as to.—The attorney-general and the various solicitors of the state, when requested by the state tax commission, shall represent the commission and the state in any and all legal proceedings instituted by or against it, and institute any legal proceedings which the commission may request or deem necessary to enforce the provisions of this article, or to compel obedience to or observance of the same, by any person, partnership, association, company, or corporation upon whom such obedience is herein imposed; to represent the state at any hearing before the commission. Ib., § 14.

2241. Special counsel employed by governor.—The governor may employ any special counsel to institute or defend such legal proceedings, or to assist the attorney-general therein, and to contract with said special counsel concerning a reasonable compensation for his or their services, which compensation shall be paid out of the state treasury on a warrant drawn by the state auditor on the state treasurer, upon the approval of the governor. Ib.

2242. Compensation of tax commissioners.—No salaries or fees shall be paid to county tax commissioners out of the treasury of the state or counties, but their compensation shall be allowed to them out of escaped, delinquent, and back taxes, licenses, or penalties as hereinafter provided. Feb. 21, 1899, p. 195, § 3.

2243. County tax commissioner; bond of.—County tax commissioners shall give bond to be approved by the judges of probate of the several counties and filed with the state auditor for the faithful performance of their duties. Ib.

2244. Special duties of county tax commissioners as to escaped and delinquent taxes.—County tax commissioners appointed by virtue of this article, shall aid the revenue officers of the state in the collection of escaped, delinquent, back taxes and licenses, in discovering and prosecuting by civil and criminal penalties and costs, all evasions and violations of the revenue laws of this state, and in the perfecting of all tax titles made under the laws of this state. The officers designated are to be direct and special agents and attorneys of the state and counties in the enforcement of the revenue laws. Ib., § 6.

2245. Duty as to license and privilege taxes.—The county tax commissioners shall scrutinize the records and stubs kept Ib., § 7.

in the office of the judge of probate, and if it shall be reported to any commissioner or come to his knowledge that any person, persons, firms, or corporations have failed or refused to take out licenses as required by law, the tax commissioners shall report the same to the judges of probate, who shall forthwith cite such delinquent to appear before them and take out such license. If such delinquent shall fail or refuse to take out license, the tax commissioners shall institute or cause to be instituted criminal proceedings against such delinquent, before any court having jurisdiction of such offense. In case of emergency the tax commissioner must commence the criminal proceedings in the first place. For performing the duties required by this section the tax commissioners are entitled for each case so brought before the probate judges, to be paid by the delinquent, in addition to the license, ten per cent on the amount of the license so collected from each delinquent. And if a criminal prosecution shall be commenced, either by information or indictment, the tax commissioner shall be paid ten per cent of the penalty prescribed in such case, all costs and penalty to be paid in money, but in all proceedings under this section, the license shall not be delinquent before the fifteenth day of January of each year.

Feb. 21,
1899, p.
196, § 8.

2246. County officers must co-operate with tax commissioners and allow use and inspection of their books and offices.—The judges of probate, the sheriff and his deputies, justices of the peace, and tax collectors and assessors, shall co-operate with county tax commissioners, and allow them full and free access at all times to all records, books, affidavits, assessments, lists, and papers in their offices, to the end that all persons, property, and occupations required by law to be licensed or taxed may be fairly, fully, and equitably assessed, and that no person, firm, or corporation may escape the just burdens of taxation.

1b.

2247. County officers guilty of contempt for failure to perform duties.—Any officer failing to perform his duty under the preceding section shall forthwith be reported by the tax commissioners to any supreme, circuit, or city court, judge or chancellor, who shall immediately issue a rule to the officer to show cause why he should not be committed to jail as for contempt. On the day fixed in the rule, if it has been served, the judge or chancellor must examine the officer, clerk, or witness, if he appears, and unless some lawful reason is shown for such default or refusal, must commit such offending person to jail until he renders the assistance, gives the information, or testifies, as required by law.

2248. Supplemental assessments by commissioners.—After the first Monday in May, the county tax commissioners shall make any assessments for the current year which the tax assessor may have failed to assess prior to that date; and the tax assessor shall enter said supplemental assessments so made by the tax commissioner, with the penalties, in his regular book of assessments, under the heading to be made by him, of "assessments by tax commissioner," which said assessments so made in the original book, shall be returned by the tax assessor, with other assessments, and follow and conform with the due course of law prescribed for them. Feb. 21, 1909, p. 195, § 9.

2249. Fees and compensation for supplemental assessments. Ib.
—The county tax commissioners shall be paid a fee of ten per cent on all taxes which may be collected upon the assessments made by them, to be added to such assessments as a penalty.

2250. Under-valuation of assessments; duties of commissioner as to.—Whenever the tax commissioner of any county shall find or it shall otherwise come to his knowledge that any person or property has been assessed at what he considers an under-valuation, he shall make an additional assessment against such person or property and return the same to the court of county commissioners, or other court of like jurisdiction, at the next succeeding term thereof, which court shall hear such tax commissioner upon such under-valuation, and unless they are fully satisfied that such under-valuation does not exist, they shall give notice, try, and dispose of assessment as in other cases of under-valuation; provided, that no taxpayer shall be required to have the valuation of his assessed property passed upon by the board under proceedings by service of citation on him by the board more than one time during the same tax year; where any taxpayer has had the valuation of any property fixed either by agreement with the tax commissioner or by trial before the court of county commissioners, or other court of like jurisdiction, or in the circuit court, in that event the valuation so fixed shall be the valuation of the property so valued for the succeeding tax year; provided, that the property remain substantially in the same condition as to improvements, unless otherwise ordered and directed by the state board of assessment. Sept. 30, 1903, p. 295, § 1.

2251. Fees and compensation as to under-valuation assessments. Ib.
—County tax commissioners shall receive ten per cent of the tax arising from such additional assessments.

2252. Appeals.—Tax commissioners and taxpayers may appeal within thirty days to the circuit court, or court of like jurisdiction, from the order of the board. Ib.

Feb. 21,
1899, p.
196, § 12.

2253. Commissioners; powers of to administer oath; question witnesses.—In the assessment of supplemental, back, or escaped taxes, as provided in this article, tax commissioners shall have the same authority to administer oaths and propound questions as the tax assessor has, and any person, firm, or corporation, or officer or agent thereof, failing or refusing to answer such questions or to give in his property, shall be liable to the same penalties as provided where persons fail or refuse to give in their property to the tax assessor, or answer the questions required to be propounded by the tax assessor.

1b. **2254. Notice and order served by deputy.**—All notices or orders required to be served in proceedings under this article shall be served by the commissioners, or their deputies, who shall be paid the same fees therefor as are paid to tax assessors for like services.

1b., § 14. **2255. Duties of county tax commissioners to attend court in cases against delinquent taxpayers, to represent state, to examine tax-books, and make report to probate judge.**—The county tax commissioners shall attend the several terms of the probate court, when the cases against delinquent taxpayers are triable, and with the assistance of the tax collectors, represent the state and county in such trials, and make the examination of the assessment of the delinquent to see that the property is properly described and assessed; and of the land-book, to see that such property is not assessed to any other person, or to owner unknown; of the books of the tax collector, to see that the taxes on said property have not been paid, and are delinquent, and that the tax collector has reported to the judge of probate that he was unable to collect the taxes assessed against such land or owner thereof, without a sale thereof; that notice to the delinquent has been made and given, and served as required by law, and carefully examine all the steps precedent and subsequent to the decree of the court, in order that a perfect and valid title may be made.

1b. **2256. Fees and compensation as to cases tried by court.**—The county tax commissioner shall receive for each case where a decree is rendered, a fee of twenty per cent of the amount of tax for which decree is rendered, but in no case to exceed ten dollars, to be charged up as costs and collected and paid as now required by law.

1b., § 15. **2257. Commissioners must get up evidence for state on appeals in tax proceedings.**—In cases where an appeal is taken, either in equalization or delinquent proceedings, from the commissioners or the probate court, or board of equalization, to the circuit court, or any court of the county of similar jurisdiction, the county tax commissioner shall get up evidence,

State Tax Commission.

and have the witnesses for the state summoned; they shall attend the trial and furnish the solicitor or counsel employed by the state with a brief of the facts and the names of the witnesses, and assist the solicitor in every way possible.

2258. Duty of county tax commissioner to attend courts of equalization.—The county tax commissioner shall appear before the court of county commissioners, or board of equalization, at all sessions held by them for the correction or equalization of taxes, where he shall represent the state and county in respect of all assessments made or procured by him. Feb. 21,
1899, p.
195, § 18.

2259. Commissioners may assist municipalities.—Any of the officers appointed by virtue of this article may assist in the collection of revenue for any municipality of this state, at the request of the mayor thereof, and when so requested, shall have all the powers conferred upon the officers of such municipality, for the assessment and collection of taxes and licenses. Ib., § 19.

2260. Escaped taxes; duties of county tax commissioners as to.—The county tax commissioners shall cause escaped taxes to be assessed and collected, and they shall have all the powers for the purpose of making assessments which are now given to the assessors and collectors. Whenever it shall come to the knowledge of any of the commissioners that any person or property within their respective counties has not been assessed with the taxes or tax which are lawfully chargeable to such person or property for the current year, or for any preceding year not more than five years before that time, he shall forthwith assess the same and deliver the assessment to the clerk of the court of county commissioners, or other court of like jurisdiction, unless the payer shall, upon being notified by the tax commissioner that he has made such assessment, agree with the tax commissioner upon the same, and shall pay the collector the amount of taxes and fees due by him. Ib., § 20.

2261. Notice to owner of assessment.—The clerk of the court of county commissioners, or other court of like jurisdiction, upon the filing of the assessment, shall issue a notice to the person who is named in the assessment as the owner of the property assessed, who is liable for the taxes shown by the assessment, if such person be a resident of the county, or have residing within the county an authorized agent known to the clerk, or to the tax commissioner, giving notice to such person that the assessment has been made, and giving a description of the property which has been assessed in the assessment, and the time when the assessment will be heard and passed upon by the court of county commissioners, or other court of like jurisdiction; and if the person named in the assessment is a non-resident of the county and his address is known

to the clerk or tax commissioner, then the clerk shall mail to such person by registered mail a copy of such notice.

Feb. 21,
1899, p.
196, § 20.

2262. Notice; contents of.—The notice required in the preceding section to be issued and served upon the person named in the assessment, shall state the amount of the proposed raise and shall be served by the tax commissioner or his deputy, who shall be paid the same fees therefor as are paid to the tax assessor for like services.

1b. **2263. Case entered on docket by clerk of court.**—Upon the filing of such assessment the clerk shall enter the same upon the docket of the court of county commissioners, or other court of like jurisdiction, and the style of the case shall be in the name of the State of Alabama as plaintiff, and the name of such property owner or person in the assessment as defendant, and shall state a brief description of the property assessed upon said docket.

1b. **2264. Case heard and determined by commissioners.**—The court of county commissioners shall, at the time specified in the notice, or at such time to which the matter may be continued by agreement of parties, or by order of the court, if service has been had ten days, proceed to hear and determine the assessment, and to confirm, modify, or reject the same as shall appear to be just, according to the laws of the state, as the evidence produced on the trial of the cause shall show to be proper.

1b. **2265. Finding of court has force and effect of judgment of law, unless appealed within thirty days.**—Every assessment so passed upon by the court of county commissioners, or other court of like jurisdiction, shall be final unless re-opened and revised by order of the state tax commission, and shall have all the force and effect of a judgment at law, but either party who shall be dissatisfied with the judgment and decision of the court may, within thirty days thereafter, appeal the case to the circuit court of the county or other court of like jurisdiction, as provided by law for appeals in tax cases.

1b. **2266. Penalty of ten per cent added.**—If the court of county commissioners, or other court of like jurisdiction, shall confirm any such assessment and render a judgment in favor of the state thereon; there shall be added to the judgment in such cases a penalty of ten per cent of the taxes which are due to the state and county in such cases under the assessment, which penalty shall be collected by the tax collector, and shall be paid to the county tax commissioner; the amount of such judgment and of the penalty shall be certified by the clerk of the court to the tax collector, but should the clerk fail to certify the amount of such penalty, then the tax collector shall add the

Sale of Lands for Payment of Taxes; Certificate and Deed to Purchaser. penalty to the amount of such judgment and collect such penalty at the time that such taxes shown by such judgment are collected.

2267. Taxes, when collected, reported to probate judge, and by him certified to auditor.—All such taxes, when collected by the collector, shall be by him reported to the probate judge, and shall be by the probate judge entered in the book of assessments on file in his office in the back part thereof, under the head of "Tax Commissioners' Assessments," and the judge of probate shall certify the amount collected and the items of property assessed, in the form of an abstract to the state auditor, and the collector shall be chargeable with the same in the amount of taxes due the state and county respectively.

Feb. 21,
1899, p.
195, § 20.

ARTICLE 11.

SALE OF LANDS FOR PAYMENT OF TAXES; DOCKET, NOTICE, DECREE AND CONDUCT OF SALE; CERTIFICATE AND DEED TO PURCHASER. 2268-2299.

SECTION.

- 2268. Jurisdiction of probate court to order sale of land for taxes.
- 2269. Docket of lands made by collector.
- 2270. Preparation of docket; time of delivery; effect of failure to deliver.
- 2271. Notices issued to persons assessed; form of.
- 2272. Service of notice; how made and returned.
- 2273. Notice by publication or posting; when given.
- 2274. Notice when lands assessed to "owner unknown;" form of, and how given.
- 2275. Publication, rate, control, etc.
- 2276. Trial-term; when service not made in time; issue of notices; continuances.
- 2277. Collector to attend court; his book of evidence.
- 2278. Decree of sale.
- 2279. Sales under decrees; notice of sale.
- 2280. Abbreviations in advertisements and entries authorized.
- 2281. Time and place of sale; judge of probate attends sales and makes record thereof.
- 2282. How real estate offered for sale; minimum price.
- 2283. Second sale on failure of bidder to pay.

SECTION.

- 2284. When real estate bid in for state.
- 2285. Certificate to purchaser; contents.
- 2286. Certificate of purchase to state; lands bid in not thereafter assessed.
- 2287. Advertisement of sale; what part paid by state.
- 2288. What portion of such advertisement payable by collector.
- 2289. Certificate of purchase assignable.
- 2290. Officers forbidden to purchase at sale; penalty; sale void.
- 2291. Appeal from decree of sale, and proceedings thereon.
- 2292. Disposition of money collected on judgment.
- 2293. Fees and costs.
- 2294. Disposition of excess of purchase money; when covered into general fund of county.
- 2295. Excess may be paid to owner within five years.
- 2296. Deed to purchaser.
- 2297. Deed to be acknowledged; effect as evidence.
- 2298. Forms of certificates and deeds prepared and distributed.
- 2299. Assessment of lands bid in by the state, and not redeemed or sold.

2268. (4046) (566) Jurisdiction of probate court to order sale of land for taxes.—The probate court of each county is

Sale of Lands for Payment of Taxes; Certificate and Deed to Purchaser.

empowered to order the sales of lands therein for the payment of taxes assessed on such lands, or against the owners thereof, when the tax collector shall report to the court that he was unable to collect the taxes assessed against such land, or any mineral, timber, or water right, or special right or easement therein, or the owner thereof, without a sale of such land.

(Feb. 18, 1895, p. 1192, § 46; Feb. 17, 1885, p. 21, § 83.) Without a rigid adherence to statutory requirements, a sale of land for taxes is void.—*Johnson v. Harper*, 107 Ala. 706 (18 So. 198); *Nat. Bank v. Baker Hill L. Co.*, 108 Ala. 635 (19 So. 47). Affidavit of tax collector as to want of personal property.—*Feagin v. Jones*, 94 Ala. 597 (10 So. 537). Valid assessment initial step to valid sale.—*Crook v. Anniston Co.*, 93 Ala. 4 (9 So. 425).

2269. (4047) (567) Docket of lands made by collector.—It shall be the duty of the tax collector, at the expense of the county, to procure a substantially bound book, in which he shall enter, in the manner usual in docketing causes for trial in the circuit court, each parcel of real estate, or right or interest or easement therein, assessed to any person against whom taxes have been assessed which are not paid, when a portion or all of such taxes are on such real estate, or right or interest or easement therein, describing the same in the same manner as it is described in the assessment list, and stating the amount of the unpaid taxes, penalties, fees, and charges due by such person, specifying the amount due the state, that due the county, and that due for fees and charges; and he shall, in like manner, enter in such book each parcel of real estate, or right or interest or easement therein, which has been assessed to an "owner unknown," and the amount of taxes, fees, and charges due thereon, stating in each case the fact that it was so assessed. The description of such real estate, or right or interest or easement therein, shall be entered in alphabetical order, by precincts of the residence of the owners, if known, and they reside in the county; but if they are unknown, or do not reside in the county, then by the precincts in which the real estate is situate.

(Feb. 18, 1895, p. 1192, § 47; Feb. 17, 1885, p. 21, § 84.) Formerly the failure of tax collector to append oath as to personal property did not invalidate sale.—*Cary v. Holmes*, 109 Ala. 217 (19 So. 723). Tax collector's docket as evidence.—*Feagin v. Jones*, 94 Ala. 597 (10 So. 537); *Riddle v. Messer*, 84 Ala. 236 (4 So. 185).

2270. (4048) (568) Preparation of docket; time of delivery; effect of failure to deliver.—Such book shall be prepared in a neat and orderly manner, in a fair and legible handwriting, with sufficient space in each case to make the necessary entries, and, in other particulars, in a manner suitable for the purposes for which it is to be used; and if it is not thus prepared, the judge of probate shall cause it to be so prepared,

Sale of Lands for Payment of Taxes; Certificate and Deed to Purchaser.

at the expense of the collector, and the cost thereof shall be deducted from his compensation. Such book shall be delivered to the judge of probate on or before the first day of March; but if, from any cause, there has been a failure to deliver the same by that time, it may be delivered thereafter.

(Feb. 17, 1885, p. 21, § 85.) Sufficiency and form of oath of tax collector appended to book.—*Riddle v. Messer*, 84 Ala. 236 (4 So. 185). Probate judge required to keep book; probate judge and collector using same book.—*Riddle v. Messer*, 84 Ala. 236 (4 So. 185).

2271. (4049) (569) Notices issued to persons assessed; form of.—On receiving such book, and as speedily as practicable, the judge of probate shall issue a notice addressed to each person against whom any unpaid taxes are assessed, as shown by such book, substantially in the following form:

“The State of Alabama, }
 _____ county. }

“To _____: The tax collector has filed in my office a list of delinquent taxpayers, and of real estate upon which taxes are due. You are reported as delinquent, and the following real estate is reported as assessed to you, to wit: (Here insert description). This is to notify you to appear before the probate court of said county, at the next term thereof, commencing on Monday, the _____ day of _____, then and there to show cause, if any you have, why a decree for the sale of said real estate should not be made for the payment of the taxes assessed against you, and fees and costs.

“_____, Judge of Probate.”

(Feb. 17, 1885, p. 21, § 86.) Validity of tax deed; validity of notice before decree; notice and place of sale.—*Smith v. Cox*, 115 Ala. 503 (22 So. 78). Notice in the manner described is essential to the jurisdiction.—*Carlisle v. Watts*, 78 Ala. 486; *Riddle v. Messer*, 84 Ala. 236 (4 So. 185). Notice to one co-tenant not notice to others.—*Howze v. Dew*, 90 Ala. 178 (7 So. 239). Notice addressed to the “estate” of a decedent and left at his late residence is no notice.—*Carlisle v. Watts*, 78 Ala. 486; *McGee v. Fleming*, 82 Ala. 276 (3 So. 1).

2272. (4050) (570) Service of notice; how made and returned.—Such notice must be served by the tax collector, or his deputy, by handing a copy thereof to the party to whom it is addressed, or his agent, or by leaving a copy thereof at the residence or place of business of such party, or his agent; and, with his indorsement thereon, showing how and when served, or if not served, showing his reasons for not serving the same; it must be by the collector, or his deputy, returned into court on or before the first day of the next term thereof. If the party against whom such assessment was made has since died, and letters testamentary or of administration have been granted upon his estate, such notice must, in like manner,

Sale of Lands for Payment of Taxes; Certificate and Deed to Purchaser.

be served on his personal representative, if a resident of the county. If the property or other subjects embraced in any assessment were returned or listed by a guardian, or other person, for a minor, or person of unsound mind, or by a trustee for his cestui que trust, except husband for wife, or by a personal representative for the estate of any deceased person, or by a public officer, receiver, or appointee of any court, such notice must, in like manner, be served on the party making the return, or his successor, and also by publication or posting, as provided in the next succeeding section; and the book, to be prepared and delivered to the judge of probate by the collector, must show, in each case, by whom such returns were made.

2273. (4051) (571) Notice by publication or posting; when given.—If the person against whom such assessment was made is a non-resident of the county, and has no agent therein known to the tax collector, or if he has died since making the return and there is no executor or administrator of his estate residing in the county, such notice may be given by publishing the same in a newspaper published in the county, or, if no newspaper is published therein, by posting the same at the courthouse of the county for three weeks.

2274. (4052) (572) Notice when lands assessed to "owner unknown;" form of, and how given.—When any assessment is made to an "owner unknown," notice must be given by publication once a week for three successive weeks, in a newspaper published in the county, or, if no newspaper is published therein, by posting the same at the courthouse of the county, for three weeks, substantially in the following form:

"The State of Alabama, }
 _____ county. }

"To whom it may concern: Take notice that the tax collector has filed in my office a list of delinquent taxpayers, and of real estate upon which taxes are due; and therein is reported as assessed to 'owner unknown' the following real estate, to wit: (Here insert descriptions). This is to notify you to appear before the probate court of this county, at the next term thereof, commencing on Monday, the _____ day of _____, then and there to show cause, if any you have, why a decree for the sale of said real estate should not be made for the payment of the taxes assessed upon the same, fees and costs.

"_____, Judge of Probate."

In answer to such notice, any person having an interest in or claim to such real estate, may appear and defend against the proceedings seeking to condemn the same to sale for the

Sale of Lands for Payment of Taxes; Certificate and Deed to Purchaser.

payment of the taxes assessed thereon. When practicable, all real estate, so assessed for any one year, must be incorporated in one notice, a separate paragraph only, in addition to the caption and conclusion, being given to the description of the real estate embraced in each assessment.

(Feb 17, 1885, p. 21, § 87.) Notice to appear before "the probate judge," instead of "the probate court," void.—*Smith v. Cox*, 115 Ala. 508 (22 So. 78).

2275. (4053) Publication, rate, control, etc.—The publication of notices under the three preceding sections is governed by the provisions of this article relating to the publication of notices of sales of land, so far as the same may be applicable; and the tax collector may select the newspaper in which any notice under this article shall be given.

2276. (4054) (574) Trial-term when service not made in time; issue of notices; continuances.—If the service of notice is perfected before the commencement of the term to which it is returnable, but not in time for trial at such term, the cause shall stand for trial at the next succeeding term. If any notice is returned not served, other notices may be issued returnable to other terms of the court until service has been had; and if two notices to the same person are returned not served, notice by publication or posting may be given as in case of non-residence. For good and sufficient reason made known to the court, any cause may be continued from term to term.

2277. (4055) (575) Collector to attend court; his book of evidence.—It shall be the duty of the tax collector to attend at the several terms of the probate court, at which any of such causes are triable, and to have with him his tax-book; and such tax-book shall, in all cases, be accepted as prima facie evidence of the amount of taxes and fees due, and that the same have been properly assessed and charged, and are unpaid.

2278. (4056) (573) Decree of sale.—If service of such notice is perfected ten days before the commencement of the term to which the same is returnable, the cause shall stand for trial at such term; and if no defense is interposed, or, if interposed, and on the trial thereof the same is adjudged insufficient in law, or is not sustained by the evidence adduced, the probate court shall make and enter on such book or docket a decree of sale, substantially in the following form:

“It appearing to the court that taxes have been assessed against the person mentioned in this cause (or, if the assessment is to an ‘owner unknown,’ that taxes have been assessed on the real estate mentioned in this cause), to the amount

Sale of Lands for Payment of Taxes; Certificate and Deed to Purchaser.

of _____ dollars for the year _____, and that the same are still due and unpaid; and it further appearing that notice of this proceeding has been given as required by law, and no valid defense has been interposed against the sale of such real estate for the payment of the taxes. It is, therefore, ordered, decreed, and adjudged by the court, that the State of Alabama has a lien for the payment of said amount, and for the additional sum of _____ dollars for fees, charges, and costs in this behalf lawfully incurred, on the following described real estate, to wit: (Here insert description). It is further ordered, adjudged, and decreed by the court that said real estate, or so much thereof as may be necessary, be sold for the payment of said delinquent taxes, and of said fees, charges, and costs, and of the expenses of such sale."

Such decree, when entered, shall be signed by the judge of probate, and shall have, when jurisdiction of the court is shown, the effect of judgments in other cases.

(Feb. 17, 1885, p. 21, § 88.) Sales for delinquent taxes invalid unless preceded by valid assessment; assessment to estate of deceased person void.—*Scott v. Brown*, 106 Ala. 604 (17 So. 731).

As amended, Feb. 23, 1890, p. 53, § 1.

2279. (4057) (576) Sales under decrees; notice of sale.—Immediately at the end of any term of court at which any decrees for sales of real estate for the payment of taxes are rendered, or as soon thereafter as practicable, the tax collector shall proceed to enforce such decrees by sales of real estate ordered to be sold; and to this end he shall give notice for thirty days before the day of sale, by publication for three successive weeks in some newspaper published in the county, and at least three weeks before the day of sale shall post a notice at the courthouse in his county, and at some public place in the precinct in which the real estate is situated, that at the time specified therein he will proceed to sell such real estate separately, describing such portions as are embraced in each decree, and stating the amount for which each decree was rendered (without stating the items of which said decree is composed), and the person against whom the taxes embraced in such decree were assessed, or if assessed to owner unknown, stating that fact. The rate to be charged for publishing such notice in a newspaper shall not exceed one and one-half cents per word for the first insertion, and one cent per word for each subsequent insertion; but no allowance shall be made for the publication of any matter other than is required by law; and if no newspaper is published in the county, or if the publication of the notice cannot be had in the county at the above rate, the posting of the notice at the courthouse and at a public place in the precinct in which the

Sale of Lands for Payment of Taxes; Certificate and Deed to Purchaser.

real estate is situated, as required by this section, shall be sufficient notice of such sale.

(Feb. 17, 1885, p. 21, § 90.) Tax deed invalid without advertisement and notice; burden of proof as to compliance with statute; statute of frauds as to sales.—*McKinnon v. Mixon*, 128 Ala. 612 (29 So. 690). Compliance essential to validity of sale.—*Johnson v. Harper*, 107 Ala. 706 (18 So. 198); *Nat. Bank v. Baker Hill I. Co.*, 108 Ala. 635 (19 So. 47).

2280. (4058) (583) Abbreviations in advertisements and entries authorized.—In all advertisements and notices of the proceedings in the probate court for the sale of the lands for taxes, and of such sales, and in all entries required to be made by the judge of probate, tax collector, or other officer, initial letters, abbreviations, and figures may be used to indicate townships, ranges, sections, parts of sections, blocks, and lots, and dates and amounts; and in estimating the costs of publication, each amount, date, or number, and each initial letter or abbreviation, shall be counted as a word.

2281. (4059) (577) Time and place of sale; judge of probate attends sales and makes record thereof.—Such sales shall be made in front of the door of the courthouse of the county, at public outcry, to the highest bidder, for cash, between the hours of ten in the morning and four in the afternoon, and shall continue from day to day until all the real estate embraced in the decrees has been sold. The judge of probate must attend such sales, and make a record thereof in a book to be kept by him in his office for that purpose, in which he shall describe each parcel of real estate sold, and state to whom sold, the price paid by the purchaser, the date of sale, and, if no sale was effected, stating that fact, and the reason therefor, and also, in separate columns, the amounts, as taken from the book or docket in which the decrees are entered, of each kind of tax, penalties, and of the fees and costs in each case; and he must also enter in such docket, in each case, the land sold under the decree in that case, the purchaser thereof, and the amount at which it was sold.

(Feb. 17, 1885, p. 21, § § 90, 96.) Probate judge and tax collector using same book.—*Riddle v. Messer*, 84 Ala. 236 (4 So. 185).

2282. (4060) (578) How real estate offered for sale; minimum price.—It shall be the duty of the tax collector, in making such sales, if practicable, to so far offer such real estate for sale that only such portion thereof may be sold as is necessary to satisfy the decree under which it is sold, and the expenses of the sale; but no sale shall be made for a sum less than the amount of such decree and expenses.

2283. (4061) (579) Second sale on failure of bidder to pay.—The person to whom any real estate at such sale is knocked

Sale of Lands for Payment of Taxes; Certificate and Deed to Purchaser.

off shall forthwith pay to the collector the amount of his bid, and, on his failure to do so, the collector must proceed at once to again offer it for sale.

2284. (4062) (580) When real estate bid in for state.—If no person shall bid for any real estate offered at such sale an amount sufficient to pay the sum specified in the decree of sale, and the costs and expenses subsequently accruing, the judge of probate shall bid in such real estate for the state, at a price not exceeding the sum specified in such decree and such subsequently accruing costs and expenses.

2285. (4063) (581) Certificate to purchaser; contents.—As soon after the sale as practicable, the tax collector must make out and deliver to each purchaser, other than the state, a certificate of purchase, which shall contain a description of the real estate sold, and show that the same was assessed by the assessor, to whom assessed, the date of assessment, for what year or years the taxes were due, the amount of taxes due thereon, distinguishing the amounts due the state and county, and for school purposes, and the fees and costs; that it was advertised and how long, and that it was offered for sale, and at what time, and who became the purchaser, and at what price.

(Feb. 17, 1885, p. 21, § 101.) Petition examined and held sufficient.—*Boach v. State*, 39 So. 685; *Johnson v. Harper*, 107 Ala. 706 (18 So. 198).

2286. (4064) (582) Certificate of purchase to state; lands bid in not thereafter assessed.—For the real estate bid off for the state, in each case, the judge of probate shall make out a certificate of purchase to the state, of like import to the one provided for in the preceding section, and deliver the same to the tax collector, who shall, on final settlement, deliver all certificates received by him from the judge of probate to the state auditor, who shall cause the same to be recorded in a book kept in his office for that purpose, and properly indexed for convenient reference; and such proceedings shall operate as a due and regular assessment. Lands bid in for the state shall not be thereafter assessed, except as hereinafter provided, until the same have been redeemed from or sold by the state.

(Feb. 17, 1885, p. 21, § 97.)

2287. (4065) (584) Advertisements of sale; what part paid by state.—The cost of advertising the caption and conclusion of notices for the sale of real estate for the payment of taxes, and so much thereof as pertains to those portions of such real estate as are bid off for the state, must be paid by the state; and the state auditor shall, after every such sale, and after the

Sale of Lands for Payment of Taxes; Certificate and Deed to Purchaser.

collector has filed with the state auditor the certificates of sales and purchases by the state, as provided in the preceding section, audit the account of the owner or proprietor of the newspaper in which such notices were published, and shall draw his warrant on the state treasurer in favor of such owner or proprietor for the amount he may find to be lawfully due him, and payable by the state, and the treasurer shall pay the same; but the state shall pay no other costs attending any tax sale.

(Feb. 28, 1887, p. 3, § 28; Feb. 17, 1885, p. 21, §§ 90, 97.)—*Burke v. Blan*, 79 Ala. 97.

2288. (4066) (585) What portion of such advertisement payable by collector.—The cost of advertising the part of such notices pertaining to lands purchased by others than the state shall be covered by the bids of the purchaser, and collected by the collector as part of the purchase money, but for the use of the owner or proprietor of the newspaper in which such notices were published, and by the collector paid over to him on demand; and for such portions of such costs, as well as for the cost of advertising lands inserted in the notice by the mistake of the collector, such collector and the sureties on his official bond shall be liable to the owner or proprietor of such newspaper.

(Feb. 17, 1885, p. 21, § 90.) Tax deed to administrator of deceased purchaser.—*Alexander v. Savage*, 90 Ala. 383 (8 So. 93).

2289. (4067) (586) Certificate of purchase assignable.—The certificate of purchase, delivered by the tax collector to a purchaser at such sale, is assignable in writing or by indorsement; and an assignment thereof vests in the assignee, and his legal representatives, all the right and title of the original purchaser.

(Feb. 17, 1885, p. 21, § 102.) Transfer of certificate of purchase, must be by endorsement and not by separate writing.—*Capehart v. McGahey*, 132 Ala. 334 (31 So. 503). Assignment of certificate of purchase by separate writing, and not by endorsement, will not authorize deed.—*Capehart v. McGahey*, 132 Ala. 334 (31 So. 503).

2290. (4068) (587) Officers forbidden to purchase at sale; penalty; sale void.—If the assessor, collector, judge of probate, or other presiding officer of the court of county commissioners shall, directly or indirectly, be concerned or interested in the purchase of any real estate sold for taxes, the sale shall be void, and he and his sureties on his official bond shall be liable to a penalty of not exceeding five hundred dollars, to be fixed by the jury, which may be recovered in an action in the circuit court, or court of like jurisdiction, brought on the relation of any taxpayer of the county, in the name of the

Sale of Lands for Payment of Taxes; Certificate and Deed to Purchaser.

state, one-half of the amount recovered to be paid to the relator, and the other half to the state.

2291. (4069) (588) Appeal from decree of sale, and proceedings thereon.—From any decree rendered by the probate court for the sale of real estate for the payment of taxes, the defendant in the cause, or the state, in behalf of itself and the county, may appeal to the next term of the circuit court, or court having like jurisdiction, of the county, within thirty days after the rendition of the decree. If the defendant appeals, he must execute a bond in double the amount of the decree, payable to the State of Alabama, with sufficient surety, to be approved by the judge of probate, and conditioned that he will prosecute the appeal to effect, and pay such judgment as the appellate court may render thereon; but the state shall not be required to execute any bond. The solicitor of the circuit or county shall represent the state on such appeal, and of the pendency thereof the judge of probate must give him notice in writing; and on appeal by the state, notice thereof shall be given the defendant, as in other cases of appeal from that court to the circuit court. Such appeal must be tried de novo, upon an issue made up under the direction of the court. If the defendant appeals, and the issue is decided adversely to him, the court must render judgment against him and his sureties in favor of the state for the amount of the taxes, fees, and costs, besides the costs of the appeal; and such judgment shall be a lien upon the lands described in the decree from which the appeal was taken, which lien, with a description of the lands, must be declared in the judgment.

(Feb. 17, 1885, p. 21, § 93.) Proceeding to establish lost record.—Whitney v. Jasper Land Co., 119 Ala. 497 (24 So. 259).

2292. (4070) (589) Disposition of money collected on judgment.—Any money collected on such judgment, except for costs of court, must be paid to the tax collector, who shall account for and pay the same over to the officers and persons entitled to receive the same.

2293. (4071) (590) Fees and costs.—For each notice to a delinquent landowner to show cause why a decree of sale should not be rendered, the judge of probate is entitled to a fee of fifty cents, and for each decree of sale, fifty cents; the tax collector shall have twenty-five cents for serving each notice, but for his attendance at court he shall receive no pay; but in case of appeal, the sheriff and the clerk of the appellate court shall be entitled to the same fees as for like services in other cases.

Sale of Lands for Payment of Taxes; Certificate and Deed to Purchaser.

2294. (4072) (591) Disposition of excess of purchase money; when covered into general fund of county.—The excess arising from the sale of any real estate remaining after paying the amount of the decree of sale, and costs and expenses subsequently accruing, shall be paid over to the owner, or his agent, or to the person legally representing such owner, or into the county treasury as in case of excess arising from the sale of personal property for taxes; and if deposited in the county treasury, it may be paid therefrom to such owner, agent, or representative in the same manner as the excess arising from the sale of personal property sold for taxes is paid. If such excess is not called for within three years after such sale, by the person entitled to receive the same, upon the order of the court of county commissioners or the board of revenue, stating the case or cases in which such excess was paid, together with a description of the lands sold, when sold, and the amount of such excess, the county treasurer shall pass such excess of money to the credit of the general fund of the county, and make a record on his books of the same, and such money shall thereafter be treated as a part of the general fund of the county.

2295. (4073) Excess may be paid to owner within five years.—At any time within ten years after such excess has been passed to the credit of the general fund of the county as provided in the preceding section, or section 2177 (4012), the court of county commissioners or board of revenue may, on proof made by any person that he is the rightful owner of such excess of money, order the payment thereof to such owner, his heir, or legal representative; but if not so ordered paid within such time, the same shall become the property of the county.

2296. (4074) (592) Deed to purchaser.—After the expiration of two years from the date of the sale of any real estate for taxes, the judge of probate then in office must execute and deliver to the purchaser, other than the state, or person to whom the certificate of purchase has been assigned, upon the return of the certificate and payment of a fee of one dollar to the judge of probate, a deed to each lot or parcel of real estate sold to the purchaser, and remaining unredeemed, including therein, if desired by the purchaser, any number of parcels or lots purchased by him at such sale; and such deed shall convey to and vest in the grantee all the right, title, interest, and estate of the person whose duty it was to pay the taxes on such real estate, and the lien and claim of the state and county thereto; but it shall not convey the right, title, or interest of any reversioner or remainderman therein.

(Feb. 28, 1887, p. 3, § 33; Feb. 17, 1885, p. 21, §§ 113, 114.) Judge of probate cannot raise objections to tax proceedings, he must leave that question

Sale of Lands for Payment of Taxes; Certificate and Deed to Purchaser.

to the purchaser and claimants; duty of probate judge is a ministerial one.—*Roach v. State*, 39 So. 685. Mandamus to compel probate judge to execute deed.—*Roach v. State*, 39 So. 685. Action must be commenced within three years after purchaser entitled to tax deed.—*Capehart v. Guffey*, 130 Ala. 425 (30 So. 390). Burden on party claiming under tax deed to prove its validity; notice and place of sale; description of property in assessment.—*Smith v. Cox*, 115 Ala. 503 (22 So. 78); *Reddick v. Long*, 124 Ala. 260 (27 So. 402). Deed must be acknowledged and certified as other deeds; attorney-general cannot prescribe form of acknowledgment variant from Code form.—*Jackson v. Kirksey*, 110 Ala. 547 (18 So. 304). Tax deed void unless acknowledged and recorded.—*Parker v. Boutwell*, 119 Ala. 297 (24 So. 860); *Smith v. Watson*, 124 Ala. 339 (27 So. 254). Party claiming under tax deed must show valid sale; tax deed as color of title.—*Beddick v. Long*, 124 Ala. 260 (27 So. 402). When tax fraudulent and may be set aside as cloud on title.—*Gilmer v. Smith*, 103 Ala. 228 (15 So. 608). Sale of land for taxes; effect on land for prior unpaid taxes.—*Thorington v. Montgomery*, 88 Ala. 548 (7 So. 363). Insufficiency of description of tax deed by reason of excepting certain parcels therefrom.—*Zundel v. Baldwin*, 114 Ala. 328 (21 So. 420). See 130 Ala. 318 (30 So. 431). Tax deed admissible as color of title, though absolutely void.—*Gist v. Beaumont*, 104 Ala. 347 (16 So. 20). Tax deed to administrator of deceased purchaser.—*Alexander v. Savage*, 90 Ala. 383 (8 So. 93). Tax deed to tenant no title as against landlord.—*Jackson v. King*, 82 Ala. 432 (3 So. 232). Recitals of tax deed as evidence of facts recited.—*Bolling v. Smith*, 79 Ala. 535; *Lassitter v. Lee*, 68 Ala. 287. Title of patentee as against adverse possessor and purchaser at tax sale.—*Bonner v. Phillips*, 77 Ala. 427. When purchaser at tax sale acquires the fee; statute not construed so as to allow person to forfeit his land without having opportunity to test validity of proceedings depriving him thereof.—*Jones v. Randle*, 68 Ala. 258.

2297. (4075) (593) Deed to be acknowledged; effect as evidence.—Such deed shall be signed by the judge of probate in his official capacity, and by him acknowledged before some officer authorized to take acknowledgments of deeds, and it shall be, in all the courts of the state, prima facie evidence of the regularity of all proceedings subsequent to the judgment recited therein, in any controversy, proceeding, or suit involving or concerning the rights of the purchaser, his heirs, or assigns to the real estate thereby conveyed.

(Feb. 17, 1885, p. 21, § 114.) Certificate must recite grantor's knowledge of deed and his voluntary execution thereof; attorney-general cannot prescribe different forms of acknowledgment.—*Jackson v. Kirksey*, 110 Ala. 547 (18 So. 304). Statute provides how deed shall be executed and the facts of which it shall be prima facie evidence.—*Johnson v. Harper*, 107 Ala. 706 (18 So. 198). **Void tax deed as color of title.**—*Alexander v. Savage*, 90 Ala. 383 (8 So. 93); *Gist v. Beaumont*, 104 Ala. 347 (16 So. 20); *Nat. Bank v. Baker Hill I. Co.*, 108 Ala. 635 (19 So. 47).

2298. (4076) (594) Forms of certificates and deeds prepared and distributed.—The attorney-general must furnish the state auditor with suitable forms of certificates of purchase and deeds to purchasers at sales of real estate for taxes, from which the state auditor shall cause to be printed a sufficient number of blank certificates and deeds, and distribute the same among the several judges of probate, to be used by them and tax collectors on sales of lands for taxes.

(Feb. 17, 1885, p. 21, § 115.) Deed must be acknowledged and certified as other deeds; attorney-general cannot prescribe form of acknowledgment variant from Code form.—*Jackson v. Kirksey*, 110 Ala. 547 (18 So. 304).

Sale of Lands for Payment of Taxes; Certificate and Deed to Purchaser.

2299. (4077) (596) Assessment of lands bid in by the state, and not redeemed or sold.—It shall be the duty of the state auditor to transmit to the tax assessor of each county, by the first day of August of each year, a descriptive list of all the lands in the county reported to him as bid in for the state during the year, and not redeemed; and it shall be the duty of the assessor to present such descriptive list to the court of county commissioners at the term of such court then next ensuing; and it shall be the duty of the court of county commissioners, assisted by the assessor, to compare such list carefully with the record of sales of lands for taxes in the county and of the redemption thereof, and to ascertain if any of such lands have been redeemed, or were not liable for the taxes for which they were sold; and if any of such lands are ascertained to have been redeemed, or to have been sold for taxes for which they were not liable, the court of county commissioners shall promptly certify the facts to the state auditor, and shall correct the record of land sales in the probate office. The assessor shall put a fair valuation on the remainder of the lands contained in such descriptive list, and shall calculate the state and county taxes on the same, and shall enter such valuation and taxes upon such descriptive list and return the same to the state auditor, who shall thereupon and annually thereafter, until such land is redeemed, or recovered, or sold by the state, without further assessment, add the amount of the taxes so assessed on valuation to the amount for which the lands were sold; and such proceedings shall have the same effect as of a due assessment against and payment of an individual purchaser of taxes subsequent to his purchase. The assessor shall furnish to the judge of probate a copy of the list returned to the state auditor, and it shall be the duty of the judge of probate to enter the taxes therein calculated on the record of sale thereof kept in his office.

ARTICLE 12.

RIGHTS AND REMEDIES OF PURCHASERS OF LAND AT TAX SALE; STATUTE OF LIMITATIONS. 2300-2312.

SECTION.

2300. When sale invalid, lien of state and county passes.
2301. Liability, when land not liable is sold.
2302. Liability of assessor and collector for failure of title attributable to their negligence.
2303. The state or any other purchaser may bring ejectment or unlawful detainer.
2304. Liability of officer when suit by purchaser defeated by reason of failure of duty on their part.
2305. When plaintiff recovers purchase money, etc., though cast in suit for land.
2306. When defendant entitled to judgment for same, though cast in suit for land.

SECTION.

2307. Tender by party claiming adversely to tax title; and effect thereof.
2308. Statement of claims under tax title made in pleadings.
2309. Effect of redemption or tender in suit by party claiming under tax title.
2310. Books, etc., of judge of probate and collector as evidence.
2311. Statute of limitations as to recovery of lands sold for taxes.
2312. Ascertainment of amount of taxes paid and twenty-five per cent per annum; conditional judgment in such case.

As amended, Mar. 4, 1908, p. 194.

2300. (4078) (597) When sale invalid, lien of state and county passes.—When the sale of any land sold for the payment of taxes is, for any cause, ineffectual to pass the title to the purchaser, whether individual or the state, except in the cases in which such sales are in this chapter expressly declared to be invalid, such sale shall operate as an assignment to the purchaser of the rights and liens of the state and county in and to the lands sold, both as to the taxes paid by said sale and as to taxes subsequently paid by the purchaser.

Lien does not arise until after judgment in action of ejectment; does not exist as to subsequent purchaser.—*Sheffield v. Tradesmen's Bank*, 137 Ala. 547 (34 So. 625). Duties of auditor purely ministerial.—*Purifoy v. Lamar*, 112 Ala. 123 (20 So. 975). Lien does not apply to sales of personal property.—*Boutwell v. Parker*, 124 Ala. 341 (27 So. 309). Sufficiency of bill to enforce lien.—*Parker v. Boutwell*, 119 Ala. 297 (24 So. 860). Lien exists only for the tax for the year for which it was assessed.—*Sheffield v. Tradesman's Bank*, 131 Ala. 185 (32 So. 598). Rights conferred upon purchaser.—*Cobb v. Vary*, 120 Ala. 263 (24 So. 442).

2301. (4079) (598) Liability, when land not liable is sold.—When lands are sold for taxes which are not liable therefor, the purchaser may recover from the officer by whose fault or neglect the assessment or sale was made, and the sureties on his official bond, the amount of the purchase money paid by him therefor, with interest thereon from the day of sale.

2302. (4080) Liability of assessor and collector for failure of title attributable to their negligence.—In case of the sale

Rights and Remedies of Purchasers of Land at Tax Sale: Statute of Limitations.

of any real estate, either for the collection of the taxes thereon, or for the collection of other taxes due by the owner thereof, said real estate shall be described in all the proceedings incident to the condemnation and sale thereof, and in the certificate and deed issued to the purchaser, at said sale, in the manner described in the assessment thereof, and in case of failure of the tax collector to so describe said property in any part of said proceedings, certificate, or deed, by reason of which said deed may be held insufficient to convey the property intended to be referred to, the said tax collector and the sureties on his official bond shall be liable to the purchaser at said tax sale. Should, however, the property be insufficiently described in the assessment thereof, the said tax assessor and the sureties on his official bond shall likewise be responsible to the purchaser, or in case the said liability has been enforced against said tax collector, then the said assessor and the sureties on his official bond shall be liable to the tax collector, or his sureties, for whatever sum he shall have been compelled to pay to said purchaser on account of said defect.

2303. (4081) (599) The state or any other purchaser may bring ejectment or unlawful detainer.—The state or any other purchaser of lands at a tax sale, or any one claiming under him, may, after the expiration of six months from the day of sale, maintain an action of ejectment, or of unlawful detainer, or a statutory real action in the nature of ejectment, for the recovery of the possession of the lands purchased at such sale, and shall be entitled to hold the possession thereof, on a recovery, but subject to the right of redemption hereinafter provided for. When the state is the purchaser, the state auditor may, if in his judgment it is to the interest of the state, after the expiration of six months from the day of sale, institute legal proceedings in the name of the state to recover possession of the real estate so bid in at tax sale, and when so recovered such real estate shall stand subject to sale, or it may be rented out if the governor so directs; but if the title fails, the auditor shall direct the proceedings to ascertain and enforce the tax liens, charges, interest, and penalties for the benefit of the state, as in case of other purchasers. And the state auditor may bring the suits authorized under sections 2301 (4079), 2302 (4080), and 2304 (4082), in proper cases.

(Feb. 28, 1887, p. 3, §31.) **Purchase by tenant enures to benefit of landlord.**—*Jackson v. King*, 82 Ala. 432 (3 So. 232). And by a tenant in common, to benefit of all co-tenants.—*Johns v. Johns*, 93 Ala. 239 (9 So. 419). But purchaser entitled to reimbursement.—*Ib.* **Collusive purchase.**—*Thorington v. City Council*, 88 Ala. 548 (7 So. 363); s. c., 94 Ala. 266 (10 So. 634). **When purchase for benefit of mortgagor void as against purchaser at mortgage sale.**—*Gilmer v. Smith*, 103 Ala. 228 (15 So. 608). **When tax deed void.**—*Jones v. Pelham*, 84 Ala. 208 (4 So. 22); *Alexander v. Savage*, 90 Ala. 383 (8 So. 93);

Rights and Remedies of Purchasers of Land at Tax Sale; Statute of Limitations.

Gist v. Beaumont, 104 Ala. 347 (16 So. 20); *Scott v. Brown*, 106 Ala. 604 (17 So. 731); *Johnson v. Harper*, 107 Ala. 706 (18 So. 198); *Nat. Bank v. Baker Hill I. Co.*, 108 Ala. 635 (19 So. 47); *Jackson v. Kirksey*, 110 Ala. 547 (18 So. 304); *Zundel v. Baldwin*, 114 Ala. 328 (21 So. 420); *Smith v. Cox*, 115 Ala. 503 (22 So. 78). **Proof of regularity devolves on party claiming under tax sale.**—*Johnson v. Harper*, 107 Ala. 706 (18 So. 198). **Tax deed as color of title.**—*Gist v. Beaumont*, 104 Ala. 347 (16 So. 20); *Nat. Bank v. Baker Hill I. Co.*, 108 Ala. 635 (19 So. 47).

2304. (4082) Liability of officers when suit by purchaser defeated by reason of failure of duty on their part.—If in any suit brought for the possession of land sold for taxes the title of the purchaser at the tax sale shall be defeated on account of any defect in the proceedings under which the sale is had, or on account of any defect in or insufficiency of the process by which the owner of the land was brought before the probate court, as is provided, or in the service of said process, or by reason of the failure of the judge of probate on account of any negligence or refusal on his part to produce, when called upon, sufficient evidence of the proper issuance and service of said notice or process, or by reason of any other defect or insufficiency in any of the proceedings for the condemnation and sale of said property, or of the certificate or deed to said purchaser, or any two or more of said causes, the officer or officers, on account of whose omission or error said defect or insufficiency, or defects or insufficiencies, shall have arisen, together with the sureties on the official bond, shall be liable to the purchaser whose title shall be thus defeated, and to his assignees, for the full sum of the purchase money paid by him at said tax sale, for said property, the cost of the suit in which said title failed, which the purchaser shall have incurred in attempting to maintain his title under said tax sale, together with the interest upon each of these amounts, at the rate of twelve per cent per annum; provided, that suits under this section shall be commenced within five years, except as to the state, from the sale.

2305. (4083) (600) When plaintiff recovers purchase-money, etc., though cast in suit for land.—If, in any suit brought by the purchaser or other person claiming under him, to recover the possession of lands sold for taxes, a recovery is defeated on the ground that such sale was invalid for any other reason than that the taxes were not due, the court shall forthwith, on the motion of the plaintiff, ascertain the amount of taxes for which the lands were liable at the time of the sale, and for the payment of which they were sold, with interest thereon from the date of sale, and the amount of such taxes on the lands, if any, as the plaintiff, or the person under whom he claims, has, since such sale, lawfully paid or assumed by the state after its purchase, with interest thereon from the date of such payment,

* Rights and Remedies of Purchasers of Land at Tax Sale; Statute of Limitations.

the interest on both amounts to be computed at the rate of twelve per cent per annum; and the court shall thereupon render judgment against the defendant in favor of the plaintiff for the amount ascertained, and the costs of the suit, which judgment shall constitute a lien on the lands sued for, and payment thereof may be enforced as in other cases.

Tax allowed plaintiff on failure of tax title.—Cobb v. Vary, 120 Ala. 263 (24 So. 442). Action to enforce lien for taxes; mandamus to compel.—Wartensleben v. Haithecock, 80 Ala. 565 (1 So. 38). Rights of sub-purchaser; how amount of taxes ascertained by plaintiff.—Brummell v. Crook, 119 Ala. 670 (24 So. 452). Complaint amendable at trial so as to make the statutory claim.—Wartensleben v. Haithecock, 80 Ala. 565 (1 So. 38). Municipal taxes paid by purchaser recoverable.—Turner v. White, 97 Ala. 545 (12 So. 601). When the taxes were not due.—Watson v. Kent, 78 Ala. 602.

2306. (4084) (601) When defendant entitled to judgment for same, though cast in suit for land.—If, in a suit brought against such purchaser, or other person claiming under him, to recover possession of lands sold for taxes, the defendant claims and defends under the tax title, and his defense fails on the ground that such sale was invalid for any other reason than that the taxes were not due, and the plaintiff recovers, the court shall forthwith, on the motion of the defendant, ascertain the amount of taxes for which the lands were liable at the time of the sale, and for the payment of which they were sold, with interest thereon from the day of sale, and the amount of such taxes on the lands, if any, as the defendant, or the person under whom he claims, has, since such sale, lawfully paid or assumed, in case of the state; with interest thereon from the date of such payment, the interest on both amounts to be computed at the rate of twelve per cent per annum; and the court shall thereupon render judgment against the plaintiff in favor of the defendant for the amount ascertained, and the costs of the suit, which judgment shall constitute a lien on the land sued for, the payment of which may be enforced as in other cases, and no writ of possession shall issue until such judgment has been satisfied.

Statute not violative of constitution; interest recoverable.—Cobb v. Vary, 120 Ala. 263 (24 So. 442); Turner v. White, 97 Ala. 545 (12 So. 601).

2307. (4085) (602) Tender by party claiming adversely to tax title, and effect thereof.—In any suit under the provisions of either of the last two preceding sections, the party claiming adversely to the tax title may, at any time, tender the amounts required in such sections to be ascertained by the court, with interest as therein prescribed; and no costs accruing after such tender shall be recovered of him, if, upon a refusal of the tender, he shall pay such amounts into court.

2308. (4086) (603) Statement of claims under tax title made in pleadings.—In a suit brought to recover the possession of

Rights and Remedies of Purchasers of Land at Tax Sale; Statute of Limitations.

lands, if either party claims under a tax title, he must, in order to entitle himself to the benefits of the three preceding sections, state in his complaint or plea, that he claims or defends, as the case may be, under a tax sale, giving the date of such sale; and such statement shall be a sufficient averment of the facts necessary to entitle him to such benefits.

Complaint amendable at trial so as to make the statutory claim.—*Wartensleben v. Haithcock*, 80 Ala. 565 (1 So. 38).

2309. (4087) (604) Effect of redemption or tender in suit by party claiming under tax title.—If, in any suit brought to recover the possession of lands sold for taxes, by or against the purchaser, or other person claiming under him, it is shown that the party claiming adversely to the tax title, being entitled to redeem, made within the time allowed for redemption, the payment required by law for the redemption of such lands, or made tender thereof, and the amount of such tender has been paid into court for the opposite party, judgment must be rendered in his favor for the costs accruing after such payment or tender, except as against the state.

2310. (4088) (605) Books, etc., of judge of probate and collector as evidence.—Unless otherwise provided, on the trial of any issue involving the sale of real estate for taxes, or the redemption thereof, the books and records belonging to the office of the judge of probate or tax collector, and required by law to be kept, or certified copies therefrom, shall be prima facie evidence of the facts stated therein.

2311. (4089) (606) Statute of limitations as to recovery of lands sold for taxes.—No action for the recovery of real estate sold for the payment of taxes shall lie, unless the same is brought within three years from the date when the purchaser became entitled to demand a deed therefor; but if the owner of such real estate was, at the time of such sale, under the age of twenty-one years, or insane, he, his heirs, or legal representatives, shall be allowed three years after such disability is removed to bring suit for the recovery thereof; but this section shall not apply to any action brought by the state; provided, however, that the provisions of this section shall not apply to cases in which the owner of the real estate sold had paid the taxes, for the payment of which such real estate was sold, prior to such sale; nor shall they apply to cases in which the real estate sold was not, at the time of the assessment, or of the sale, subject to taxation.

(Feb. 18, 1897, p. 1489, § 33.) Action must be commenced within three years after purchaser entitled to tax deed.—*Capehart v. Guffey*, 130 Ala. 425 (30 So. 390). Party claiming under deed must show tax sale; void tax deed color of title.—*Reddick v. Long*, 124 Ala. 260 (27 So. 402). Validity of deed; insufficient description; adverse possession under color of title.—*Zundel v.*

Redemption of Lands Sold for Taxes; Sales by the State.

Baldwin, 114 Ala. 328 (21 So. 420). See 130 Ala. 318 (30 So. 431). Has no application when tax deed is invalid; limitation does not begin to run until delivery and registration of tax deed.—**Smith v. Cox**, 115 Ala. 503 (22 So. 78). Tax deed of auditor admissible in evidence.—**Taylor v. Corley**, 113 Ala. 580 (21 So. 404). Does not apply when owner redeems from the sale.—**Scott v. Brown**, 106 Ala. 604 (17 So. 731). Nor to bill to enforce trust resulting from purchase by agent.—**Waller v. Jones**, 107 Ala. 331 (18 So. 277). Landlord admitted to defend, position same as if originally sued.—**Turner v. White**, 97 Ala. 545 (12 So. 601). Decisions under former statute.—**Jones v. Randle**, 68 Ala. 258; **Lassitter v. Lee**, 68 Ala. 287; **Pugh v. Youngblood**, 69 Ala. 296; **Doe v. Anderson**, 79 Ala. 209; **Bolling v. Smith**, 79 Ala. 535.

2312. Ascertainment of amount of taxes paid and twenty-five per cent per annum; conditional judgment in such case.— (w.c.c.)

When the suit is against the person against whom the taxes were assessed, or the owner of the land at the time of the sale, his heir, devisee, vendee, or mortgagee, the court shall, on motion of the defendant, made at any time before the day set for trial of the cause, ascertain the amount paid by the purchaser at the sale and of the taxes subsequently paid by the purchaser, together with twenty-five per cent per annum thereon and a reasonable attorney's fee for the plaintiff's attorney for bringing the suit, and shall enter judgment for the amount so ascertained in favor of the plaintiff against the defendant, and the judgment shall be a lien on the land sued for. Upon the payment into court of the amount of the judgment and costs, the court shall enter judgment for the defendant for the land and all title and interest in the land shall, by such judgment, be divested out of the owner of the tax deed.

ARTICLE 13.

REDEMPTION OF LANDS SOLD FOR TAXES; SALES BY THE STATE. 2313-2328.

SECTION.

2313. Persons entitled to, and time allowed for redemption.
 2314. Mode and terms of redemption.
 2315. When distinct lot or parcel sold with other lands may be separately redeemed.
 2316. Application under oath to be filed with the judge of probate; contents.
 2317. Application to redeem separate lot or parcel must be submitted to the auditor for approval.
 2318. Certificates of redemption, and of release.
 2319. Redemption money for; where deposited, and how paid over.
 2320. Redemption money must be promptly paid over, else no commission allowed; quarterly reports.

SECTION.

2321. Assessor and collector to be notified of redemption and fees paid them; duty of assessor to list lands.
 2322. Purchaser not liable for rents on redemption; exception.
 2323. Description of lands bid in by state, etc.; prepared by auditor; sale thereof.
 2324. When former owner to be notified and allowed to redeem.
 2325. Auditor to execute deed to purchaser; rights thereunder.
 2326. Auditor to certify sale to judge of probate and furnish description to assessor, etc.
 2327. How county taxes, fees, etc., distributed.
 2328. Effect of failure to redeem lands bid in by state.

Redemption of Lands Sold for Taxes; Sales by the State.

2313. (4090) (607) Persons entitled to, and time allowed for redemption.—Real estate sold for taxes and bid off by the state may be redeemed at any time before the title passes out of the state, or if purchased by any other purchaser, may be redeemed at any time within two years from the date of the sale, by the owner, his heirs, or personal representative, or by any mortgagee or purchaser of such lands, or any part thereof, or by any person having an interest therein, or in any part thereof, legal or equitable, in severalty or as tenant in common, including a judgment creditor, or other creditor having a lien thereon, or on any part thereof; and an infant or insane person entitled to redeem at any time before the expiration of two years from the sale, may redeem at any time within one year after the removal of his disability; and such redemption may be of any part of the lands so sold, which includes the whole of the interest of the redemptioner.

(Feb. 28, 1887, p. 3, § 34; Feb. 28, 1889, p. 777.) Redemption by tenant in common enures to benefit of all co-tenants.—*Scott v. Brown*, 106 Ala. 604 (17 So. 731).

2314. (4091) (608) Mode and terms of redemption.—To obtain such redemption, the party entitled thereto must deposit with the judge of probate of the county in which the land is situate the amount of money for which the lands were sold, with interest thereon at the rate of fifteen per cent per annum; all taxes which have been or should have been assessed against the land since the day of sale, or if bid in for the state, such taxes as should have been assessed if the land had been in the possession of any citizen, with interest thereon at the rate of eight per cent per annum, and all costs to officers that may have legally accrued, unless such taxes and costs have been already paid by him, which may be shown by the receipt of the tax collector, and one dollar to the judge of probate as his fee upon such redemption; and if the redemption is by a mortgagee, or other creditor entitled to redeem, or by any other person having an interest, but not the legal title, he shall have a lien on the lands for the money expended by him in effecting the same; and if by a tenant in common, he shall have a like lien on the interest of his co-tenant.

(Feb. 28, 1887, p. 3, § 34; Feb. 28, 1889, p. 777.) No written application for redemption is necessary.—*Roach v. State*, 39 So. 685.

2315. (4092) When distinct lot or parcel sold with other lands may be separately redeemed.—When distinct lots or parcels of land have been included in one assessment and sold for taxes under one decree, any person, other than the person against whom the decree was rendered, whose interest in one or more of such lots or parcels is such as to entitle him to

Redemption of Lands Sold for Taxes; Sales by the State.

redeem, but who has no interest in the other lots or parcels sold under such decree, may redeem the lots or parcels in which he has such interest, without redeeming those in which he has no interest.

2316. (4093) Application under oath to be filed with the judge of probate; contents.—A person desiring to redeem any separate lot or parcel of land, as authorized by the preceding section, must file with the judge of probate application in writing, under oath, setting forth the date of the decree, the name of the defaulting taxpayer against whom the same was rendered, the description and character of each lot or parcel of land included in the decree and the assessed value thereof, if separately valued in the assessment, or, if not separately valued, stating that fact and stating the assessed value of the whole of the lands, a description of the lot or parcel which the applicant seeks to redeem, and, if not separately valued in the assessment, stating the value thereof at the time of the assessment, the nature of his interest in such lot or parcel, and that he has no other interest in the other lots or parcels; and such applicant must deposit with the judge of probate a sum of money which bears the same proportion to the amount of taxes and interest which would be required to redeem all the lands included in the decree, that the value of such lot or parcel as separately assessed, or, if not separately assessed, as ascertained by the judge of probate, bears to the value of the whole of the lands included in the decree; and, in addition thereto, such applicant must deposit the amount of all costs to officers which may have accrued upon such assessment and sale.

2317. (4094) Application to redeem separate lot or parcel must be submitted to the auditor for approval.—The judge of probate must, before allowing the redemption of a separate lot or parcel of land under the two preceding sections, submit the application, together with a copy of the statement or calculation ascertaining the amount to be paid on such redemption, to the state auditor for his approval, and the auditor may call upon the judge of probate or the assessor or the collector for any information he may desire touching the application. If the state auditor is satisfied that the applicant is entitled to redeem such lot or parcel of land, and that the proper amount of money has been deposited with the judge of probate, the state auditor shall indorse his approval upon the application and return the same to the judge of probate, who must allow the redemption; but without the approval of the state auditor, the judge of probate must not allow the redemption, and must return to the applicant the money deposited by him for that purpose. When such application is made within the time

Redemption of Lands Sold for Taxes; Sales by the State.

allowed by law for redemption, the same may be perfected as herein provided, notwithstanding the expiration of such limitation; provided, that where the land sought to be redeemed has been purchased by an individual and not by the state, it shall not be necessary to submit the matter to the state auditor.

Amended,
Mar. 4,
1908, p.
194.

2318. (4095) (610) Certificates of redemption, and of release.—Upon the payment of the amount required by law for the redemption of the lands sold for taxes by a person entitled to redeem, the judge of probate must issue such person a certificate of redemption describing the lands, setting forth the facts of the sale, substantially as contained in the certificate of purchase, the date of redemption, the amount paid, and by whom the lands are redeemed; and he must make the proper entries in the book of sales in his office and immediately give notice of such redemption to the county treasurer; and the certificate must then be presented to such treasurer, who shall countersign the same, and unless so countersigned, no certificate shall be held as evidence of redemption. And it shall be the duty of the judge of probate to keep a book of certificates of redemption, and every blank shall have a stub attached thereto, on which shall be printed such matter as the state auditor may prescribe, with appropriate blank spaces to be filled by the judge of probate upon the issuance of any certificates of redemption. The state auditor shall take and file in his office a proper receipt from the judge of probate for the certificates of redemption so furnished him. If such lands were bid in by the state, the person redeeming shall present to the state auditor the certificate of redemption, and the state auditor shall give to such person a certificate releasing all claims to the lands acquired by the state at the tax sale.

2319. (4096) (611) Redemption money for; where deposited, and how paid over.—If the lands redeemed were bid in by any person other than the state, the redemption money must be deposited by the judge of probate in the county treasury, and there kept separate and apart from the general funds of the county; and the judge of probate shall notify the purchaser of such deposit by mailing notice to the postoffice address of such purchaser, if the same be known, and if unknown, then he shall mail such notice to such purchaser at the county site of the county in which the lands are located; and upon the demand of the purchaser, his personal representative, or assignee, and the surrender of the certificate of purchase, the judge of probate must give him an order on the treasury for the same.

As amended,
Mar. 4,
1908, p.
195.

2320. (4097) (612) Redemption money must be promptly paid over, else no commission allowed; quarterly reports.—When lands which have been bid in by the state are redeemed,

Redemption of Lands Sold for Taxes; Sales by the State.

the judge of probate must, during the month in which such redemption is made, remit to the state treasurer, at the expense of the state, the proportion of the redemption money belonging to the state, and pay into the county treasury the proportion of such money belonging to the county, and to the proper authorities the proportion belonging to the school fund, if any; and upon all such money so paid over during the month of collection, he is entitled to commission at the rate of two and one-half per cent, which he may deduct therefrom, but he shall not be allowed any commissions on any money not so paid over; and on the last business day of each month the judge of probate shall certify to the auditor and to the county treasurer, upon blanks to be furnished by the auditor, a full and correct statement of all real estate bid in by the state and redeemed, showing separately the amount of state, county, and school taxes and penalties and costs received by him on such redemption, and if no lands have been redeemed, he shall report that fact.

2321. (4098) (612) Assessor and collector to be notified of redemption and fees paid them; duty of assessor to list lands.—Within five days after the redemption of any real estate bid in by the state, the judge of probate shall notify the tax assessor and tax collector of his county thereof, and shall, on demand, pay to them the costs and fees to which they are respectively entitled; and the assessor shall enter such real estate, and the name of the person redeeming the same, on an appropriate list, to be kept by him, for assessment.

2322. (4099) (613) Purchaser not liable for rents on redemption; exception.—Neither the purchaser nor any one claiming under him, who may have lawfully obtained possession of any real estate purchased at tax sales, shall be liable, upon the redemption of such real estate, to account to the owner for any rents, issues, or profits during such possession, but as to such rents, issues, and profits, he shall be held and considered the rightful owner of such real estate, unless such owner, at the time of the sale, was a minor, a person of unsound mind, and had no guardian, or his guardian was not lawfully served with notice of the proceedings had in the court of probate for the sale of such real estate, in which event such purchaser, or other person in possession, shall be liable for rents, issues, and profits, as in other cases; provided, that neither such purchaser nor any one claiming under him shall have the right to cut standing timber from land so purchased at tax sales, until he shall have received a deed for the land from the probate judge.

As amended,
Oct.
10, 1908,
p. 410, § 1.

2323. (4100) (614) Description of lands bid in by state, etc.; prepared by auditor; sale thereof.—It shall be the duty of the

Redemption of Lands Sold for Taxes; Sales by the State.

state auditor to cause to be prepared a suitable book, in which shall be entered a description, as accurate as can be obtained, of all the lands which have been bid in by the state, with the amount of state and county taxes due thereon, the date when such lands were bid in; and when two years shall have elapsed from the day of sale, such portions of such lands as have not been redeemed shall be subject to sale by the state; and the state auditor, with the approval of the governor, may sell the same at private sale to any purchaser who may pay therefor in cash to the treasurer such sum of money as the state auditor and state treasurer, with the approval of the governor, may ascertain to be sufficient to cover and satisfy all claims of the state and county, which sum shall not be less than the whole amount of taxes, interest, costs, and officers' fees, as provided for and required to be paid in case of the redemption of such lands.

Amend-
ed, Mar.
4, 1908,
p. 196.

2324. (4101) When former owner to be notified and allowed to redeem.—When application is made to the state auditor by any person to purchase lands in which such person had no interest, it shall be the duty of the state auditor to mail a notice in writing to the owner, or some person having an interest in such lands, if his place of residence is known, or, if not known, then to the judge of probate of the county in which such lands are situate, informing him that such application has been made and fixing a reasonable time within which such owner or other person having an interest in the lands may redeem the same; the judge of probate shall cause the notice to be posted at the courthouse, and he shall mail a copy of said notice to the owner, if known to him; and if such lands are not redeemed within the time so fixed, the same shall be sold to the applicant, or any other person desiring to purchase the same, without other or further notice to such owner or person having an interest in the lands. If such lands are redeemed within the time so fixed, the judge of probate must, without delay, report the same to the state auditor, and pay over the redemption money, as required by law.

2325. (4102) (614) Auditor to execute deed to purchaser; rights thereunder.—When lands have been sold by the state, as provided in the two preceding sections, and the purchase money has been paid, the state auditor, in behalf of the state, shall execute to the purchaser a deed, duly acknowledged, without warranty or covenant of any kind on the part of the state, express or implied, conveying to him all the right, title, and interest of the state in and to the lands purchased by him; and such purchaser shall thereafter have all the right, title, and interest of the state in and to such lands, and shall be held

Redemption of Lands Sold for Taxes; Sales by the State.

and treated as the assignee of all the taxes due upon such lands, or for which they were sold, and the penalties, and of all the taxes that should have been, under the law assessed upon the same, if they had been the property of a private citizen of the state; and he shall be clothed with all the rights, liens, powers, and remedies, whether as a plaintiff or defendant, respecting said lands as an individual purchaser at the tax collector's sale would have in similar circumstances; and all such liens and charges as the state had before such sale by the state auditor shall be enforced in favor of such purchaser from him as under the provisions of law relating to individual purchasers at sales by the tax collector. Or such purchaser, on failure of his title at law, instead of proceeding to have his liens and charges assessed by a jury, may foreclose the same by proceeding in equity.

(Feb. 28, 1887, p. 3, § 37.) Tax deed of auditor admissible in evidence.—Taylor v. Corley, 113 Ala. 580 (21 So. 404). If state acquired no title by its purchase, auditor's deed conveys none.—Fleming v. McGee, 81 Ala. 409 (1 So. 106). Mandamus to compel auditor to make deed.—Purifoy v. Lamar, 112 Ala. 123 (20 So. 975).

2326. (4103) (614) Auditor to certify sale to judge of probate and furnish description to assessor, etc.—Upon the consummation of such sale the state auditor must certify the same to the judge of probate, who shall make entry thereof in the book of land sales in his office; and the auditor shall furnish a description of such lands to the assessor of the county in which they are situate, who shall enter the same upon his list for assessment; but the time allowed infants and lunatics, in which to redeem lands sold for taxes, shall in nowise be affected by any such sale and conveyance.

2327. (4104) (616) How county taxes, fees, etc., distributed.—When lands bid in by the state have been sold by the state under any of the provisions of this chapter, the state auditor shall draw his warrant on the state treasurer in favor of the judge of probate of the county in which the lands lie, for the county and school taxes, and the fees and costs due to the different officers of the county, specifying each separately; and if the same cannot be ascertained from the records and papers in his office, the judge of probate, on notice by the state auditor of such redemption or sale, must certify the same to him; and the judge of probate, upon the collection of such warrant, shall pay the same over to the officers entitled thereto, or authorized by law to receive the same.

2328. (4105) (617) Effect of failure to redeem lands bid in by state.—The right to redeem any real estate bid in for the state shall be forfeited, unless such real estate is redeemed

Canceling Erroneous Sales and Refunding Purchase Money.

within the time prescribed in this chapter; and if not redeemed within that time, all the right, title, and interest of the owner of such real estate, and of the person whose duty it was to pay the taxes thereon, in and to such real estate, shall be transferred to, and absolutely vested in the state.

ARTICLE 14.

CANCELING ERRONEOUS SALES AND REFUNDING PURCHASE MONEY. 2329-2331.

SECTION.

2329. When sale by the state canceled and purchase money refunded.

2330. Amount of such purchase money paid over to county to be refunded to state.

SECTION.

2331. When tax sale to private purchaser canceled and money refunded.

2329. (4106) When sale by the state canceled and purchase money refunded.—When land which has been bid in for the state at tax sales has been sold by the state at private sale, and the purchase money has been paid into the state treasury, and it shall be made to appear to the satisfaction of the state auditor and of the governor that such tax sale was invalid by reason of the fact that the taxes for which the land was sold were not due, the state auditor, with the approval of the governor, may, upon the surrender and cancellation of the deed executed by the state auditor to such purchaser, draw his warrant on the state treasurer, in favor of such purchaser, his heir or representative, for the amount of money so paid to the state for such land, and the treasurer must pay the same. But no such sale shall be canceled and the purchase money refunded unless application therefor be made within two years from the date of such sale.

2330. (4107) Amount of such purchase money paid over to county to be refunded to state.—The state auditor must ascertain the amount of such purchase money which has been paid to the county in which the land is situated, as fees, costs, taxes, penalty, and interest, or on other account, if any such payment has been made on account of such purchase, which amount he shall certify to the judge of probate of such county, or presiding officer of the court of like jurisdiction, where the judge of probate has no connection with such court, who shall present such claim at the next succeeding term of the commissioners' court, or court of like jurisdiction of such county, when such court shall order a warrant in favor of the state for such amount, which warrant shall be a preferred claim against the county, and payable by the county treasurer to the judge of

Erroneous Sales.

probate, or presiding officer of any court of like jurisdiction, where the judge of probate has no connection with such court, who shall forthwith forward such amount, less cost of remitting, to the state treasurer, and report it to the state auditor.

2331. (4108) (595) When tax sale to private purchaser canceled and money refunded.—When land has been sold for taxes and purchased by a purchaser other than the state, and the purchase money has been paid into the state and county treasuries, and it shall be made to appear to the satisfaction of the judge of probate and the state auditor that such sale was invalid by reason of the fact that the taxes for which the land was sold were not due, the judge of probate, upon the surrender and cancellation of the deed, if a deed has been executed to such purchaser, and an appropriate entry upon the record of sales in his office canceling such sale, must give to such purchaser a certificate to the state auditor showing the amount of state taxes received by the state from the proceeds of such sale, and a similar certificate to the court of county commissioners, or court of like jurisdiction, showing the amount of county taxes received by the county from the proceeds of such sale; and the state auditor, if he shall find such certificate to be correct, must draw his warrant on the state treasurer in favor of such purchaser, his heir or representative, for the amount of money so received by the state, and the treasurer must pay the same; and the amount so paid to the county must be allowed by such court at the next or any succeeding term thereof. But no such sale shall be canceled and the purchase money refunded unless application therefor be made within five years from the date of the tax sale.

ARTICLE 15.

ERRONEOUS SALES. 2332-2339.

SECTION.

2332. Duties of state auditor as to erroneous sales of property for taxes.

2333. Agent in each county.

2334. Compensation of agents.

2335. Power to investigate sales.

2336. Compensation of person or firm to investigate sales.

SECTION.

2337. Record of land bid in by state at tax sale.

2338. Sale by the state; when not redeemed.

2339. Notice to former owner to redeem.

2332. Duties of state auditor as to erroneous sales of property for taxes.—The state auditor shall examine carefully all certifications of purchase of real estate, where the same were bid in for the state at tax sale, that are on file at his office, or that may be hereafter by him received, and if, in his opinion, such sale was erroneous for want of regularity, improper or

Feb. 15,
1890, p.
120, § 1.

insufficient description, error in advertisement, or for any other cause that may come within his knowledge, he shall so declare it, and return such certificate to the judge of probate in the county of such sale; he shall also notify the tax assessor of the county in which the property is situated, and direct him to assess the same as an escape for the years in which it is subject under existing laws. But in no case where sales are declared erroneous or void by the auditor shall any penalty attach to the taxpayer, except interest on taxes, all cost accruing shall be paid by the officer making the error, as required by section 2304 (4082) of this Code, in case of purchase by individuals.

Feb. 13,
1899, p.
120, § 2.

2333. Agent in each county.—The state auditor shall appoint, with the approval of the governor, an agent in each county in the state, to look after, protect against trespassers, and rent any real estate bid in by the state at tax sale; said agent shall be under the control and direction of the state auditor, who shall have the power to remove for any cause, any agent so appointed.

Ib.

2334. Compensation of agents.—For services rendered under the preceding section, the state auditor shall be permitted to pay, out of the receipts received from said agent, fair compensation for his services.

Ib., § 3.

2335. Power to investigate sales.—The state auditor, by the approval of the governor, may contract with some person or firm in each county of the state, to investigate sales of real estate for taxes and bid in for the state, to notify parties at interest in such real estate, of such sale, to secure redemption or sale of property subject to sale at private sale by the state, and transact such other business in connection therewith that the state auditor may deem necessary for the interest of the state.

Ib.

2336. Compensation of person or firm to investigate sales.—For services rendered under the preceding section, the auditor may allow fair compensation, which shall not exceed ten per cent of the proceeds from such sale or redemption, and shall be paid from the fund so received, or may be paid by the transfer of property held by the state, subject to sale at private sale.

Ib., § 4.

2337. Record of land bid in by state at tax sale.—The state auditor shall have prepared a suitable record in which shall be entered a description of all real estate bid in by the state at tax sale, with the amount of taxes due the state and county, and the costs due officers, and the date when such lands were sold.

Ib.

2338. Sale by the state when not redeemed.—When two years have elapsed from date of sale, such portions of real estate as have not been redeemed shall be subject to sale by the

To Refund Money Paid for Taxes Not Due, or Erroneously Paid. state at private sale, and the auditor, with the approval of the governor, may sell the same at a price fixed by the state auditor and state treasurer, and approved by the governor.

2339. Notice to former owner to redeem.—Upon application for the purchase of real estate under this article, the state auditor shall notify the former owner thereof. Feb. 18,
1890, p.
120, § 4.

ARTICLE 16.

TO REFUND MONEY PAID FOR TAXES NOT DUE, OR ERRONEOUSLY PAID. 2340-2347.

SECTION.

2340. To refund taxes when paid by error.

2341. Proof of claim, certified to auditor.

2342. How paid by state auditor.

2343. To whom applicable.

2344. Time within which petition must be filed.

SECTION.

2345. Paid under mistake of law or fact; refunded; action for.

2346. Payment of amounts; erroneously paid and costs awarded.

2347. Extent of application of two preceding sections.

2340. To refund taxes when paid by error.—Any person or his agent, or the heir or personal representative of such person who owns property subject to taxation in this state, and who, through a mistake or error in the assessment or collection of taxes, has paid to the county tax collector money that was not due from him for taxes, may file a petition in the court of county commissioners asking that a warrant be drawn in his favor refunding to him such part of said money as was received by the county, and that the certificate of the judge of probate be sent the state auditor, showing the amount of said money received by the state. Sep. 29,
1908, p.
278, § 1.

2341. Proof of claim certified to auditor.—The court of county commissioners shall examine into the facts and evidence offered by the petitioner in support of the allegations of his petition, and, if proper and full proof of the same be made, the court must allow said claim as to the county tax, and must instruct the judge of probate to certify to the state auditor the fact that a petition has been filed in the commissioners' court, and full and proper proof has been made of the facts therein alleged, and furnish the state auditor a copy of the said proof, and that the petitioner, through a mistake or error in the assessment or collection of taxes, has paid to the county tax collector a certain named sum of money, of which amount the state has received ——— dollars, which should be refunded in accordance with the prayer of the petition. Ib., § 2.

2342. How paid by state auditor.—On receipt of said certificate of the probate judge from the court of county com- Ib., § 3.

To Refund Money Paid for Taxes Not Due, or Erroneously Paid.

missioners and copy of proof, the state auditor, if he find said certificate to be correct and proof sufficient, shall draw his warrant on the state treasury in favor of the petitioner for such an amount as the said certificate shows should be refunded.

Feb. 29,
1908, p.
278, § 4.

2343. To whom applicable.—The provisions of this article shall apply to all persons who are justly entitled to have refunded money erroneously paid for taxes after the 29th day of September, 1903.

Ib.

2344. Time within which petition must be filed.—No such claim shall be allowed and the money for same refunded, unless the petition therefor shall be filed within four years from the date said payment was made to the county tax collector.

Aug. 16,
1907, p.
689, § 1.

2345. Paid under mistake of law or fact; refunded; action for.—In case of the payment of money under mistake of law or fact upon any illegal tax assessment made under color of any law, special or general, of the state, or by any of its political subdivisions, authorizing the assessment or collection of taxes for any purpose whatever, whether for any municipality, for the payment of the creditors of any municipality, for schools, or otherwise, except the laws relating to taxes to be paid to the state or to the general funds of the counties, respectively, the same shall be recoverable by appropriate proceedings at law or in equity against the proper parties or their successors, with the usual rights of and upon appeal, and that such payment was not made under compulsion or protest shall be immaterial.

Ib., § 2.

2346. Payment of amounts erroneously paid and costs awarded.—In case of any petition or application for the refund of any money paid as aforesaid, filed with any mayor and aldermen, or any other municipal or other board, court of chancery, or other authority having the control or the administration or the supervision of the receipts or disbursements of any taxes collected under, or under color of, any law mentioned in the preceding section, it shall, upon proper proof, pay or order paid all such money so erroneously paid, and the tax collector, custodian, disbursing officer, or agency under it must obey such order, and also pay such costs as may in such petition or application or suit be awarded, adjudged, or decreed in favor of such person making such erroneous payment; but this section shall not apply to assessments where owners of property received special benefits, or where taxes were due but irregularly assessed thereon.

Ib., § 3.

2347. Extent of application of two preceding sections.—The provisions of the two preceding sections shall apply to all persons and corporations who are now or may hereafter be

General Duties of Auditor in Supervising the Enforcement of the Revenue Laws.

justly and equitably entitled to have money erroneously paid for taxes refunded, such payment having been made within six years preceding the commencement of any action, suit, or proceedings for its recovery.

ARTICLE 17.

GENERAL DUTIES OF AUDITOR IN SUPERVISING THE ENFORCEMENT OF THE REVENUE LAWS; MISCELLANEOUS PROVISIONS. 2348-2360.

SECTION.

- 2348. Duties of auditor as to enforcement of revenue laws.
- 2349. Assessment lists; form and printing of.
- 2350. Auditor to prepare and furnish printed forms of questions for use by assessors.
- 2351. Revenue law to be printed in pamphlet for distribution.
- 2352. Duty of auditor as to institution of suits; agreed statement of facts.
- 2353. Failure to give collector credit for commissions; how corrected.
- 2354. Warrant for overpayments.

SECTION.

- 2355. Taxes a preferred claim in case of general assignment or insolvency.
- 2356. Officer selling property under decree or process to first pay taxes.
- 2357. Liability of agent for taxes on receipts.
- 2358. Copies of papers, records, etc., in auditor's office as evidence.
- 2359. Assessor and collector may contract for stationery, printing, etc.
- 2360. Penalty against officer failing to pay over money collected.

2348. (4109) (618) Duties of auditor as to enforcement of revenue laws.—The enforcement of the revenue laws of the state shall be under the general supervision and direction of the state auditor, who shall, by general rules, and, if need be, by specific instructions, direct the tax assessors and tax collectors in the discharge of their duties; and in case of doubt, he shall, after taking the opinion of the attorney-general, advise the assessors and collectors as to the construction to be placed upon the law; and such rules, instructions, and advice, when followed or conformed to, shall protect them as against the state. He shall see that the returns, reports, payments, and settlements, required by law to be made by any and all officers charged with the performance of any duties under this chapter, are promptly made by such officers at the time or times they are required to be made; and in default of the performance by any of them of any of such duties, he shall promptly direct such prosecutions or other legal proceedings as may be by law authorized or directed.

2349. (4110) (619) Assessment lists; form and printing of.—It shall be the duty of the state auditor to prepare and cause to be printed a blank form of assessment list, specifying therein the different species of property, with appropriate blanks for a description of each, and the other subjects of tax-

ation, which are required by law to be returned by the taxpayer to the tax assessor for taxation; and upon this form he may cause to be placed an abstract of the duties of the taxpayers in returning their lists, and of their duties and liabilities as declared by law, and such instructions to the assessors as will advise them of their duties in making assessments of property and other subjects for taxation; and he shall furnish each assessor one or more of such forms, so that the assessor may cause to be printed, or otherwise prepared, as many copies thereof as may be needed in his county. The state auditor shall also furnish to the judges of probate of the several counties blank forms, whereon are to be returned to him the abstracts of the property and other subjects of taxation, polls, and taxes, required by law to be returned to him by such officers.

2350. (4111) Auditor to prepare and furnish printed forms of questions for use by assessors.—It shall be the duty of the state auditor to have prepared for the use and guidance of the tax assessors, a printed form of questions, with suitable blank spaces for answer in writing by the taxpayer, his agent, or the tax assessor, as to the description, location, quantity, quality, and all other information required to be given as to any and all property, real, personal, mixed, or an interest therein, together with suitable columns in which to enter the value placed upon such property or interest therein, and also a column showing the amount of state, county, and special taxes on the aggregate of real and personal property separately.

2351. (4112) Revenue law to be printed in pamphlet for distribution.—The auditor shall cause the revenue law, with a copious index thereto, to be printed in the form of a pamphlet, and after retaining the number of copies which may be necessary for the use of the officers of the state at the capitol, shall furnish a copy thereof to each of the judges of the circuit and city courts, and the chancellors and judges of the supreme court, judges of probate, solicitors, members of the legislature, members of the courts of county commissioners or boards of revenue, and assessors and collectors, and to bar libraries and justices of the peace, and shall cause the remainder to be sold at such price as will indemnify the state against loss from printing and publication of the same, as herein required. So much of the matter included in such pamphlet as may be copied from this chapter must follow in the order and arrangement in which it appears herein, showing the number of this chapter, the number and title of each article, and the headline and number of each section as herein shown.

General Duties of Auditor in Supervising the Enforcement of the Revenue Laws.

2352. (4113) (620) Duty of auditor as to institution of suits; agreed statement of facts.—It shall be the duty of the state auditor to cause suit to be brought, in the name of the state, against any and all persons by law charged with the collection of state taxes, or with any duty in regard to the state revenue, and their sureties, for failure to collect such taxes or to perform such duty; and he may also, in such cases as, in his judgment, the interest of the state requires it, cause suit to be brought against defaulting taxpayers for the taxes claimed from them by the state; and, in cases in which a reasonable doubt may exist as to the construction or validity of the law under which taxes are claimed, he may authorize an agreed statement of the facts of the case to be made for the speedy adjudication of the matter in controversy.

Liability for taxes enforceable by action at law.—Perry Co. v. Railroad Co., 58 Ala. 546; State v. Fleming, 112 Ala. 179 (20 So. 846).

2353. (4114) (621) Failure to give collector credit for commissions; how corrected.—When the state auditor finds that he has failed to give any tax collector credit for commissions to which he is entitled, he is authorized to correct such error in his settlement with such collector; and if the account of such collector has been closed, and such commissions have been paid into the state treasury, the state auditor shall draw his warrant on the state treasurer for the amount thereof in favor of such collector.

2354. (4115) (622) (506) Warrant for over-payments.—The state auditor must draw his warrant on the state treasurer in favor of any judge of probate, tax collector, county treasurer, clerk of the circuit court, or other officer paying money into the state treasury, for any amount over-paid into the treasury by such judge of probate, tax collector, county treasurer, clerk of the circuit court, or other officer.

2355. (4116) (623) Taxes a preferred claim in case of general assignment or insolvency.—When a taxpayer makes a general assignment of his property for the payment of his debts, or is declared a bankrupt, or when dead, and his estate is or becomes insolvent, any unpaid taxes assessed against him, or against his estate, shall be a preferred claim, and shall be paid by the assignee, trustee, or personal representative out of the first money received by him belonging to the trust or estate.

2356. (4117) (624) Officer selling property under decree or process to first pay taxes.—When any sheriff or other officer shall sell any property under execution or other process, or under any decree, judgment, or order of any court, it shall be his duty to ascertain what taxes are a lien upon such prop-

General Duties of Auditor in Supervising the Enforcement of the Revenue Law. erty, and, upon a sale thereof, to first apply the proceeds of such sale to the payment of such taxes.

(Feb. 17, 1885, p. 21, § 136.) *Holding v. Thomas*, 62 Ala. 4; *State v. Vincent*, 78 Ala. 233.

2357. (4118) (625) Liability of agent for taxes on receipts.—When taxes are levied on the gross or net receipts of any person, company, corporation, or association doing business in this state, by any agent, such agent shall be personally liable for such taxes, and the tax collector may collect the same from such agent by garnishment, or by the seizure and sale of any personal property belonging to him, as if such taxes were assessed against him.

2358. (4119) (626) Copies of papers, records, etc., in auditor's office as evidence.—In any suit against any tax assessor, tax collector, judge of probate, or other officer charged with the performance of any duties under this chapter, and his sureties, or either, for failure to pay over any money collected by him for the state, or to perform any other duty required of him by law, a copy of any bond, record, book, paper, contract, return, or other document, or of the official statement of any account between him and the state, in the office of the state auditor or state treasurer, certified by the state auditor, if the original is in his office, or by the state treasurer, if in his office, under the seal of the state auditor, shall be received as evidence in any case in which the original would be competent, unless the defendant shall deny under oath that he made or executed such original.

2359. (4120) (627) Assessor and collector may contract for stationery, printing, etc.—The tax collector and tax assessor are authorized to purchase necessary books and stationery, and to contract for the necessary printing in their respective offices, with the approval of the court of county commissioners.

(Feb. 17, 1885, p. 21, § 132.)—*White v. Williams*, 49 Ala. 130.

2360. (4121) (628) Penalty against officer failing to pay over money collected.—Upon a verdict being returned in favor of the state, in any suit brought by the state against any officer charged with the collection of any revenue for the state, and his sureties, or either, for the recovery of any such revenue collected by him, a judgment must be rendered for the amount of such verdict, and twenty per cent thereon.

ARTICLE 18.

LICENSE TAXES; FROM WHOM AND FOR WHAT BUSINESSES REQUIRED; PRICES;
COUNTY LEVY. 2361-2363.

SECTION.

2361. Persons required to take out licenses, and prices to be paid therefor.

SECTION.

2362. License for county purposes; amounts, how determined.
2363. Lien of state for license taxes.

2361. (4122) (629) Persons required to take out licenses, and prices to be paid therefor.—Licenses are required of all persons engaged in or carrying on any business or doing any act in this section specified, for which shall be paid for the use of the state the following taxes, to wit:

As amended, Mar. 5, 1901, p. 222.

1 (1). Abstracts.—Abstract companies and persons pursuing the business of furnishing abstracts of title, in towns or cities of twenty thousand inhabitants or more, thirty dollars; in towns and cities from ten to twenty thousand inhabitants, twenty dollars; in towns and cities of from five thousand to ten thousand inhabitants, ten dollars; in towns and cities of less than five thousand inhabitants, five dollars.

As amended, Mar. 4, 1908, p. 196.

2 (2). Auctioneers.—For each auctioneer in any city or town of twenty thousand inhabitants or over, a license tax of fifty dollars per annum; in cities or towns of eight thousand inhabitants and less than twenty thousand, thirty dollars per annum; in cities and towns of five thousand inhabitants, and less than eight thousand, twenty dollars per annum; in cities or towns of more than one thousand and less than five thousand, five dollars per annum. The term auctioneer, within the meaning of the foregoing provisions, shall be deemed to apply to any person selling goods, wares, merchandise, live stock, or other things of value, at public outcry, except as otherwise herein provided, whether a charge is made for the same or not.

As amended, Mar. 5, 1901, p. 223.

In the following cases sales at public outcry may be made for a compensation without license:

First. The estate of a decedent by the personal representative, or his agent, according to law, or by the provisions of the will.

Second. Property conveyed by deed of trust, mortgage, or decree, or ordered to be sold according to the deed, decree, or order.

Third. Any person may sell the agricultural products arising from his own or other labor under his control, or his real or personal estate, not purchased or sold on speculation.

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

Fourth. All sales under legal process. For transient or itinerant auctioneers, or dealers in goods, wares, and merchandise, other than licensed peddlers, and other than traveling agents or wholesale dealers in said article making sale thereof by sample, fifty dollars.

Mar. 7,
1907, p.
40 14.

2a. **Automobiles.**—For each person who keeps for hire or rent any automobile, locomobile, or any like car, a license tax as follows: In towns and cities of more than thirty thousand inhabitants, fifty dollars; in towns and cities of more than fifteen thousand and less than thirty thousand inhabitants, thirty-five dollars; in all other cities and towns, twenty-five dollars.

As amend-
ed, Mar.
5, 1901,
p. 224.

3 (3). **Bagatelle, or jenny lind tables.**—For each bagatelle or jenny lind table, or any other table or device of any kind from which any kind of profit is derived by the keeper, fifty dollars.

As amend-
ed, Mar.
4, 1908,
p. 196.

4 (4). **Baseball park.**—For each owner or lessee of a baseball park, where admission fees are charged, fifty dollars; provided, that in towns and cities of less than fifteen thousand inhabitants, only twenty-five dollars shall be charged.

1b., p. 197.

5 (11). **Bicycles.**—Each person, corporation, or firm keeping bicycles for rent or hire in cities of over twenty thousand inhabitants, fifteen dollars; in cities between ten and twenty thousand inhabitants, ten dollars; in towns of less than ten thousand inhabitants, five dollars.

As amend-
ed, Mar.
5, 1901,
p. 224.

6 (6). **Billiard tables.**—For each billiard table, for the use of which money or other compensation is charged, and which is not kept in connection with the business of a barroom or drinking saloon, twenty-five dollars.

For each billiard table kept in connection with the business of a barroom or drinking saloon, whether its use be charged for or not, fifty dollars.

1b.

7 (9). **Bill posters.**—For each bill poster or person pursuing the business of posting bills, in cities and towns of twenty thousand inhabitants or more, twenty-five dollars; in towns and cities from ten to twenty thousand inhabitants, fifteen dollars; in towns and cities of less than ten thousand inhabitants, five dollars.

As amend-
ed, Mar.
4, 1908,
p. 197.

8 (4½). **Bond-makers.**—Any person, firm, or corporation engaged in the business of making bonds, except guarantee or surety companies or corporations otherwise provided for or regulated, shall pay a license of fifty dollars per annum.

As amend-
ed, Mar.
5, 1901,
p. 225.

9 (12). **Book agents.**—Any person other than a merchant paying an ad valorem tax on his stock of goods, who shall receive subscriptions for or shall in any manner furnish books,

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

maps, prints, pamphlets, or periodicals, shall pay a privilege tax of ten dollars in each county in this state in which he shall do business; but this shall not apply to persons distributing or selling by subscription any religious books, pamphlets, or periodicals. No license shall be required of any person who was a Federal or Confederate soldier during the civil war, or to any indigent or disabled person who only sells or furnishes books, maps, prints, pamphlets, or periodicals to persons residing in the county where such indigent or disabled person resides.

10 (5). **Bottlers.**—For each person, firm, or corporation engaged in the business of bottling non-alcoholic, carbonated, or other soft drinks, a license tax as follows: In towns or cities of not more than five thousand inhabitants, or within four miles thereof, twenty-five dollars. And in towns of five thousand inhabitants and not exceeding twenty thousand inhabitants, or within four miles thereof, fifty dollars. And in all towns or cities having more than twenty thousand inhabitants, or within four miles thereof, one hundred dollars.

As amended, Mar. 7, 1907, p. 403, § 15.

11 (8). **Bowling alleys.**—For bowling or tenpin alleys, for the use of which money or other compensation is charged, twenty-five dollars for each alley; and for each bowling or tenpin alley, kept in connection with a drinking saloon, whether compensation is charged or not, twenty-five dollars.

As amended, Mar. 5, 1901, p. 224.

12 (13). **Brewers.**—For brewers, one hundred dollars. Every agency of a brewery of another state doing business in this state shall pay the same license; and any person, whether retail dealer or not, selling the goods or product of any brewery, shall be deemed and held an agent unless such brewery shall have an established agency in this state.

Ib., p. 226.

13 (10). **Brokers or commission merchants.**—For each commission merchant or dealer in merchandise for commission in towns and cities of less than twenty-five hundred inhabitants, five dollars; and of twenty-five hundred and less than five thousand inhabitants, ten dollars; in towns and cities of five thousand and less than ten thousand inhabitants, fifteen dollars; in towns and cities of ten thousand and less than twenty-five thousand inhabitants, twenty-five dollars; in towns and cities of twenty-five thousand inhabitants or more, fifty dollars.

As amended, Mar. 4, 1908, p. 198.

14 (27). **Cane racks.**—See Devices.

As amended, Mar. 5, 1901, p. 220.

15 (26). **Cards; dealers in.**—For each dealer in playing cards, five dollars.

16. **Ciders.**—For retailers of drinks, known as ciders, a retail license of twenty dollars for the state and ten dollars

Mar. 7, 1907, p. 403, § 21½.

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

(r.c.c.) for the county, and any person dealing in said drinks, who shall sell, barter, or exchange, or in any way dispose of or permit to be taken away any cider in a quantity less than one quart, or who shall permit the same to be drunk by the glass or single drink, in or about his place of business, shall be declared a retail dealer; but the provisions of this subdivision shall not apply to pure apple or peach ciders.

As amend-
ed, Mar.
5, 1901,
p. 226.

17 (14). **Cigarette dealers.**—For each dealer in cigarettes, whether principal stock in trade or not, in any place outside of incorporated towns or villages, five dollars. In incorporated towns and cities of five thousand inhabitants or less, ten dollars. In towns and cities of more than five thousand and not exceeding ten thousand inhabitants, twenty dollars. In towns and cities of more than ten thousand and not exceeding twenty thousand inhabitants, twenty-five dollars. In all other places, thirty-five dollars.

As amend-
ed, Mar.
4, 1906,
p. 199.

18 (16). **Circuses.**—For each day's exhibition of a circus, in towns or cities having more than five thousand inhabitants, or within five miles thereof, one hundred and fifty dollars; in all other places, one hundred dollars. Every building, space, tent, or area where feats of horsemanship or acrobatic sports are exhibited shall be regarded as a circus; but the provisions of this section shall not apply to theaters paying a theatrical license where acrobatic feats, or pony or dog shows are given. For each day's exhibition of a pony or dog show, exhibiting in towns and cities having more than ten thousand inhabitants, thirty-five dollars. In all other places, twenty-five dollars. For each day's exhibition of a side show accompanying a circus, menagerie, or museum, ten dollars. For any flying jenny accompanying a circus, ten dollars per day.

Ib., p. 208.
(r.c.c.)

19 (25). **Coal or coke agents or dealers.**—Each person, firm, or corporation, or their agents, who deal in coal or coke, in towns or cities of twenty thousand or more inhabitants, twenty dollars; in towns and cities of less than twenty thousand inhabitants and more than five thousand inhabitants, ten dollars; in towns and cities of five thousand inhabitants or less, five dollars; but this shall not apply to persons or companies who sell in quantities of five bushels or less, or persons who mine their own coal and sell the same in wagon load lots only.

As amend-
ed, Oct. 1,
1903, p.
306, § 1.

20 (17). **Cold storage.**—Any person, firm, or corporation doing a cold storage business, ten dollars.

As amend-
ed, Sep.
0, 1903,
p. 801, § 2

21 (20). **Collecting agencies.**—Each collecting agency in towns and cities of twenty thousand and more inhabitants, one hundred dollars; in towns and cities of less than twenty thousand inhabitants, twenty-five dollars. Each person, firm,

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

association of persons, or corporation which shall employ agents to solicit claims for collection, or shall send out circulars or other notices soliciting claims for collection from persons, firms, or corporations in the state, or which shall agree or contract with any person, firm, or corporation to give any compensation, rebate, or other thing of value to any person for the purpose of procuring or inducing such person to solicit or procure for him or them any claim for collection, shall be deemed a collecting agency within the meaning of this section; provided, that any person, firm, or corporation which shall pay the license tax as a commercial or mercantile agency, as provided in the succeeding subdivision, shall not be liable for the license tax as a collecting agency except in one county in the state.

22 (18). **Commercial or mercantile agencies.**—Each person, firm, or corporation, or association of persons inquiring into and reporting upon the credit and standing of persons in this state, shall pay to the state annually the sum of three hundred dollars, and the payment of this license in any one county shall be sufficient, and shall not be required in any other county in the state. Amended, Sep. 30, 1908, p. 301, § 1.

Engaging in business of inquiring into or reporting credit and standing of persons.—State v. Montgomery Light & Power Co., 130 Ala. 683 (30 So. 908).

23 (22). **Compounders and rectifiers.**—For compounders and rectifiers of spirituous, vinous, or malt liquors, two hundred dollars; any person who rectifies, purifies, or refines distilled spirits or wines or other liquors with any chemicals or other substances, or any dealer who dilutes such liquors or wines with water or any other substance, or who compounds liquors for sale under any name, shall be deemed a compounder or rectifier under this section. As amended, Mar. 4, 1908, p. 203.

24 (19). **Concerts or exhibitions.**—For each concert, musical entertainment, public lecture, or other public entertainment where charges are made for admission, or for the use of any instrument or device or the participation in any exercise or entertainment not given wholly for charitable, school, or religious purposes, and not otherwise provided for, ten dollars; but the provision of this subdivision shall not apply to exhibitions or entertainments given in theaters when the owners or managers thereof have taken out license as owner or manager. In all cases where such exhibitions shall be in the nature of a continuous show or performance, the license shall be five dollars per day, fifteen dollars per week, or thirty dollars per month. ib., p. 200.

25 (21). **Construction companies.**—Each person, firm, or corporation engaged in the business of constructing bridges, ib., p. 202.

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

waterworks, railroads, or other structures of a like public nature, commonly known as a contractor or sub-contractor, shall pay annually a license tax of ten dollars, in each county where doing business.

Amended,
Mar. 5,
1901, p.
229.

26 (24). **Corporations.**—All corporations organized under the laws of this state and doing business in this state, not otherwise specifically required to pay a license tax, shall pay annually the following privilege taxes: Corporations whose paid up capital stock is under ten thousand dollars, ten dollars; corporations whose capital stock exceeds ten and is less than twenty-five thousand dollars, fifteen dollars; corporations whose paid up capital stock is twenty-five thousand dollars and does not exceed fifty thousand dollars, twenty-five dollars. Where the paid up capital stock exceeds fifty thousand and is not over one hundred thousand dollars, fifty dollars. Where the paid up capital stock exceeds one hundred thousand dollars and does not exceed two hundred thousand dollars, seventy-five dollars. Where the paid up capital stock exceeds two hundred thousand dollars and does not exceed three hundred thousand dollars, one hundred and twenty-five dollars. Where the paid up capital stock exceeds three hundred thousand dollars and does not exceed four hundred thousand dollars, one hundred and seventy dollars. Where the paid up capital stock exceeds four hundred thousand dollars and does not exceed five hundred thousand dollars, two hundred dollars. Where the paid up capital stock exceeds five hundred thousand dollars and does not exceed one million dollars, three hundred dollars. Where the paid up capital stock exceeds one million dollars, five hundred dollars. Where application is made for the license herein provided, it shall be accompanied by the affidavit of the president or other chief officer of the corporation, showing the amount of capital stock of such corporation; but the payment of this tax in one county in this state, as evidenced by the license or official certificate of the judge of probate, shall be sufficient; but the provision of this subdivision shall not apply to banks and banking institutions regularly organized as such.

The amendment of Mar. 4, 1903, p. 184, repealed general and special laws, and was not revived by the act of Sept. 30, 1903, p. 298.—*Gaston v. O'Neal*. 145 Ala. 484 (41 So. 742), Tyson, J., dissenting.

As amended,
Mar.
4, 1903,
p. 202.

27 (23). **Cotton buyers.**—Each person, firm, or corporation whose principal business is buying cotton, ten dollars, to be paid in each county in which such person, firm, or corporation buys cotton. But when any person has taken out a license to operate a warehouse he shall be entitled to buy cotton without taking out a cotton buyer's license.

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

27a. **Cotton compress.**—For each person, firm, or corporation owning or operating any compress for the purpose of compressing cotton, a license tax as follows: For each compress compressing not more than fifty thousand bales, fifty dollars; for each compress compressing more than fifty thousand bales, in any one year, one hundred dollars. Mar. 7, 1907, p. 408, § 19.

27b. **Cottonseed oil mill.**—For every person, firm, or corporation operating any cottonseed oil mill; cotton mill, or cotton factory, ten dollars where the investment for plant and fixtures is less than twenty thousand dollars; on every plant where the investment is twenty thousand dollars and less than fifty thousand dollars, thirty dollars; on every plant where the investment is fifty thousand dollars and under one hundred thousand dollars, fifty dollars; on every plant where the investment is one hundred thousand dollars and under five hundred thousand dollars, one hundred dollars; on every plant where the investment is five hundred thousand dollars and under one million dollars, one hundred and fifty dollars; on every plant where the investment is one million dollars, or over, two hundred dollars. Ib., § 21.

28 (30). **Detective agencies.**—For each detective agency, company, or corporation doing business in this state, fifty dollars. As amended, Mar. 5, 1901, p. 230.

29 (31). **Devices.**—For each device used by persons as a source of profit to themselves, such as throwing at wooden figures, or any object of like character, cane racks, knife racks, striking an object to test the strength, blowing to test the lungs, or other device of like character, for each county in which it is operated, twenty-five dollars. But this subdivision shall not be so construed as to legalize the operation of any device which is now prohibited by law. Ib.

30 (33). **Dice and dice boxes and dominoes.**—For each table or device or set of domino bones, kept in connection with a barroom or drinking saloon for use in playing the game commonly known as dominoes, fifty dollars; and for each dice box or dice kept in a barroom or drinking saloon, fifty dollars. Ib., p. 231. (r.c.c.)

31 (33½). **Dispensaries.**—Each town or city having a dispensary shall pay license as follows: In towns or cities having less than five hundred inhabitants, two hundred and fifty dollars; in towns or cities having less than one thousand inhabitants and more than five hundred, five hundred dollars; each town or city with more than one thousand inhabitants having a dispensary, shall in addition to five hundred dollars, pay two hundred and fifty dollars for each one thousand inhabitants or majority fraction in excess of one thousand inhabitants. As amended, Mar. 4, 1903, p. 208.

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

This provision shall apply to all dispensaries heretofore established or which may hereafter be established.

- Amended, Mar. 4, 1908, p. 208. (r.c.c.)
 As amended, Mar. 5, 1901, p. 230.
 As amended, Sep. 30, 1908, p. 301.
- 32 (28). **Distillers.**—For distillers of spirituous liquors, one hundred dollars; but this shall not apply to the distilling of fruits.
- 33 (29). **Dog shows**—See Circuses.
- 34 (32). **Dummy railways.**—For each dummy railway being operated in this state, the following license tax: In counties of forty thousand inhabitants or over, fifty dollars; in counties of thirty thousand inhabitants and less than forty thousand, forty dollars; in counties of less than thirty thousand inhabitants, ten dollars.
- Amended, Mar. 4, 1908, p. 204. (r.c.c.)
- 35 (34). **Electric light, gas, and waterworks.**—Each electric light or power company, street railroad company, waterworks company or corporation, gas company or corporation, operated by a person or company or corporation for public uses, other than a municipality, shall pay to the state the following license taxes: In cities or towns of twenty thousand inhabitants or more, two hundred dollars; in cities or towns of more than ten thousand inhabitants and less than twenty thousand inhabitants, fifty dollars; in cities and towns of more than five thousand inhabitants and less than ten thousand, twenty-five dollars; in cities and towns of less than five thousand inhabitants, fifteen dollars.
- As amended, Oct. 1, 1908, p. 34.
- 36 (34½). **Emigrant agents.**—Each emigrant agent or person engaged in hiring laborers or soliciting emigrants in this state, to be employed or to go beyond the limits of the state, must pay an annual license of five hundred dollars in every county in which he operates or solicits emigrants, which amounts must be paid into the state treasury for the use of the state.
- As amended, Mar. 5, 1901, p. 232.
- 37 (34½). **Entertainments where dancing is had or permitted to be had, and for admission to which charge is made.**—For each entertainment in towns and cities of over one thousand inhabitants where dancing is had or permitted to be had, and for admission to which a charge is made, five dollars; this shall not apply to a theater which pays a regular license as such.
- ib.
- 38 (36). **Express companies.**—See section 2086 (3914) of this Code.
- As amended, Mar. 4, 1903, p. 204.
- 39 (35). **Eye glasses.**—See Peddlers.
- 40 (37). **Feather renovators.**—For each person, firm, or agent soliciting or engaged in cleaning and renovating feathers, in each county, one hundred dollars.
- Mar. 7, 1907, p. 408, § 20.
41. **Fertilizer factory.**—For each person, firm, or corporation owning or operating any fertilizer factory in which the

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

capital invested does not exceed twenty-five thousand dollars, a license tax of fifty dollars; in which the capital invested exceeds twenty-five thousand dollars and does not exceed fifty thousand dollars, a license tax of one hundred dollars; in which the capital invested exceeds fifty thousand dollars, and does not exceed one hundred thousand dollars, a license tax of two hundred dollars; in which the capital invested exceeds one hundred thousand dollars, two hundred and fifty dollars for each factory, and each fertilizer mixing plant, fifteen dollars.

42 (37½). **Fire, bankrupt, insolvent sales, etc.**—Before any person, firm, or corporation shall sell or be engaged in the business of selling goods, wares, merchandise, or other personal property, such sales being advertised as bankrupt, insolvent, insurance, assignee, trustee, testator, executor, administrator, receiver, auction, syndicate, railroad, or other wreck, wholesale or manufacturers or closing out sale, or as goods damaged by smoke, fire, water, or otherwise, such person, firm, or corporation shall file an application with the probate judge of the county where such sale is held, or to be held, for a license, which application shall be accompanied by an affidavit stating all the facts, relating the reasons for and character of such sale so advertised and represented, and including a statement of the names of the persons from whom the goods, wares, and merchandise, or other personal property, were obtained, the date of delivering to the person applying for such license, and the place from which said goods, wares, and merchandise or other personal property were last taken or brought, and all details necessary to exactly locate and fully identify the said goods, wares, merchandise, or other personal property, and shall further pay to the judge of probate as a license fee for the privilege of selling such goods, wares, merchandise, or other personal property, the sum of one hundred dollars, and such license shall be required in each county where such business may be conducted; and upon the filing of such application and affidavit and payment of said sum the judge of probate shall issue a license to such applicant; but the provisions hereof shall not apply to bona fide sales of general assignees for the benefit of creditors, or bona fide trustees selling under powers of sale in any deed of trust, or mortgage or lien, executors and administrators selling the goods of their decedent, or to any officer selling property under legal process, or to regularly licensed auctioneers selling bona fide at public outcry in the usual course of their business.

As amended,
Mar.
4, 1908, p.
206.

43 (39). **Flying jennies.**—For each flying jenny, called also hobby horses and merry-go-rounds, or other device of like

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

As amend- character, the following license taxes: In cities and towns of ed, Mar. twenty thousand inhabitants or over, and within one mile of 4, 1908, p. such, thirty dollars per year, ten dollars for each month, or 307. five dollars for each week; in cities or towns of less than twenty thousand inhabitants and more than two thousand inhabitants, or within one mile of such, twenty dollars per year, five dollars for each month, and two dollars and fifty cents for each week. In any other place, ten dollars per year, two dollars per month, and one dollar per week; provided, that whenever any license is taken out by any person for a flying jenny or other such device for a whole year, such person may operate such device at any point in the county where the license is taken out, which would not conflict with the license so taken out; in other words, no person shall be permitted to operate such device in any locality for which a higher license is charged than that which he has paid.

Running flying jennies; sufficiency of evidence to support complaint in action to recover license.—Bowen v. State, 131 Ala. 39 (31 So. 79).

As amend- 45 (41). **Fortune tellers.**—For each fortune teller, five dol- ed, Mar. lars. 5, 1901, p. 238.

Ib. 46 (42). **Fruit stands.**—For each fruit stand in cities and towns of over ten thousand inhabitants, five dollars; in other places, two dollars and fifty cents.

As amend- 47 (40). **Futures; dealers in.**—For each person, firm, or ed, Mar. corporation engaged in the business of buying and selling 7, 1907, p. futures for speculation, or on a commission, either for them- 408, § 6. selves or for other persons, and each place of business commonly known as cotton exchanges or stock exchanges, and sometimes called "bucket shops," in towns or cities of twenty thousand inhabitants or more, five thousand dollars; in towns or cities of ten to twenty thousand inhabitants, four thousand dollars; in towns or cities of five thousand inhabitants to ten thousand inhabitants, twenty-five hundred dollars; in towns or cities of twenty-five hundred to five thousand inhabitants, two thousand dollars; in towns or cities of twenty-five hundred inhabitants or less, one thousand dollars; but this subdivision shall not have the effect to legalize or authorize any business or contract, which would otherwise be invalid or illegal.

As amend- 48 (43). **Gypsies and traders.**—For each company of trad- ed, Mar. ers, usually known as gypsies, twenty-five dollars for each 5, 1901, p. 238. company.

As amend- 49 (44). **Horse dealers.**—For each person, firm, or corpo- ed, Mar. ration engaged in buying, selling, or exchanging horses, mules, 4, 1908, p. 208; p. 408, § 7. jacks, or jennets, twenty dollars for each county.

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

50 (46). **Ice factories.**—For each ice factory, with a capacity of less than ten tons per day, fifteen dollars; of more than ten tons per day, and less than fifteen tons per day, twenty-five dollars. For each ice factory with a greater capacity than fifteen tons per day, fifty dollars.

As amended, Mar. 5, 1901, p. 235.

51 (45). **Insurance companies.**—For each insurance company doing a banking business, in addition to other special tax, fifty dollars.

As amended, Mar. 5, 1901, p. 234.

52 (47). **Itinerant traders, auctioneers, and dealers.**—For transient or itinerant auctioneers, or traders or dealers in goods, wares, or merchandise, other than licensed peddlers, and other than traveling agents of wholesale dealers in articles making sale thereof by sample, fifty dollars; and this tax shall apply to all dealers who are migratory and do not pay an ad valorem tax.

As amended, Mar. 5, 1901, p. 235.

53 (81½). **Junk dealers.**—Each junk dealer in cities and towns of over fifty thousand inhabitants, one hundred dollars; in cities and towns of less than fifty thousand inhabitants and over ten thousand inhabitants, fifty dollars; in cities and towns of three thousand inhabitants and less than ten thousand inhabitants, twenty-five dollars; in cities or towns under three thousand inhabitants, five dollars; each junk dealer, his clerk, agent, or employe, shall keep a book, open to inspection, in which he shall make entries of all articles of railroad iron and brass, pieces of machinery, and plumbing material purchased by him, together with the name of the party from whom purchased, and upon failure to keep such book or record and produce it on demand, the dealer shall forfeit his license. Each junk dealer, his clerk, agent, or employe, to whom any new and unused articles of railroad iron and brass and pieces of machinery shall be presented for sale shall notify the police authorities that such articles are offered for sale, within a reasonable time thereafter, otherwise his license shall be forfeited.

Amended, Sep. 30, 1908, p. 301. (r.c.c.)

54. **Jury certificates.**—See witness certificates.

As amended, Mar. 4, 1903, p. 208.

55 (48). **Knife and cane racks.**—See Devices.

56 (49). **Laundries.**—Each laundry, other than those run by hand power, ten dollars; this shall apply to laundries run by hotels for profit, and shall not apply to laundries in towns and villages of less than one thousand inhabitants.

Amended, Mar. 5, 1901, p. 235. (r.c.c.)

57 (51). **Legerdemain and sleight of hand.**—For each exhibition of feats of legerdemain or sleight of hand, or other exhibition or entertainment of like kind, ten dollars.

Ib., p. 236.

58 (50). **Lightning rod agents, stoves, ranges, etc.**—Each person, firm, or corporation selling or delivering sewing ma-

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

As amended, Mar. 7, 1907, p. 408, § 11. chines, either in person or through agents, and for each person, firm, or corporation who engages in the business of selling or delivering lightning rods, stoves, ranges, buggies, or other vehicles, twenty-five dollars annually for each county in which they may sell or deliver said articles; and for each wagon and team used in delivering or displaying the same an additional sum in each county of ten dollars annually; but this section shall not apply to merchants selling the above enumerated articles at their regularly established places of business.

Tax on sewing machines, what not unconstitutional discrimination.—*Quartlebaum v. State*, 79 Ala. 1. Sufficiency of indictment to charge offense of selling sewing machines without a license.—*Merritt v. State*, 59 Ala. 46.

Amended, Mar. 4, 1903, p. 209. (r.c.c.)

59 (52). **Liquors; dealers in.**—For retail dealers in spirituous, vinous, or malt liquors in cities and towns or villages or other place of less than one thousand inhabitants, two hundred dollars; in cities, towns, or villages of more than one thousand inhabitants and less than three thousand inhabitants, two hundred and fifty dollars; in cities and towns of more than three thousand inhabitants and less than five thousand inhabitants, two hundred and seventy-five dollars; in cities and towns of more than five thousand and less than ten thousand inhabitants, three hundred dollars; in cities and towns of more than ten thousand and less than twenty-five thousand inhabitants, three hundred and fifty dollars; and in cities of twenty-five thousand inhabitants and over, five hundred dollars. Dealers in lager beer exclusively shall be charged one-fourth of the above rates, and dealers in wines exclusively shall be charged one-tenth of above rates. Any person who pays for and takes out a license as a retailer shall not be required to pay for and take out a license as wholesaler except dealers in lager beer exclusively who shall only sell the same at retail, unless they have paid for and taken out a wholesale dealer's license. For wholesale dealers in spirituous, vinous, or malt liquors in any place, three hundred and fifty dollars. For wholesale dealers in lager beer exclusively, one hundred and fifty dollars, but any brewery may sell the beer of its own production at wholesale without taking out this license, provided it has paid for a license as a brewery. Any person dealing in said articles, who shall sell, barter, or exchange, or in any way dispose of or permit to be taken, spirituous, vinous, or malt liquors in any quantity less than a quart, or who shall permit the same to be drunk by the glass or single drink in or about his place of business, shall be deemed a retail dealer; and any person so disposing of spirituous, vinous, or malt liquors only in the quantity of one quart or more, shall be deemed a wholesale dealer. For retail dealers in any malt or other liquor of the kind commonly called

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

and known as hopfeinweiss, or hop jack, or malt tonic, or malt beverage, and other liquors of like character which are produced either from malt, hops, or grain or other substances usually used in the production of lager beer, the same amount of the license charged for retail dealers in spirituous, vinous, or malt liquors in like places. For the retail of spirituous, vinous, or malt liquors on any steamboat or other water craft, or any sleeping, dining, or buffet car, three hundred and fifty dollars, for which the state shall have a preferred lien upon such steamboat, or water craft, or cars named; such lien may be enforced in any county through which the same may run, by any officer whose duty it is to collect taxes. Such license, when taken out in one county, shall entitle such steamboat, water craft, or car to sell at any point in the state through which the same may run, except that sales must not be made in any prohibition county except to bona fide passengers and while such boat or water craft or car is actually running.

Contract to sell or use license of another to sell liquor.—*Sims v. Ala. Brewing Co.*, 132 Ala. 311 (31 So. 35). Retailing liquors or intoxicating bitters without license; proof of intoxicating properties of bitters or tonic.—*Brantley v. State*, 91 Ala. 47 (8 So. 816). License for retailing spirituous liquors recoverable in action of debt; civil action not affected by criminal statute.—*State v. Fleming*, 112 Ala., 179 (20 So. 846). Intoxicating liquors or bitters not necessarily spirituous, vinous or malt.—*Allred v. State*, 89 Ala. 112 (8 So. 56).

60 (56½). **Machine slot.**—For each machine, such as nickle-in-the-slot, or other device of like character, whether the same is charged for or not ten dollars. This shall apply to music boxes, phonographs, etc., having the nickle-in-the-slot device; but this subdivision shall not apply to any device prohibited by law or to any machine from which merchandise or gas is received for the amount placed in said machine. Where several such slot machines are run or operated as a "penny arcade" or like place of amusement, the total license on all machines so run or operated in any one "penny arcade," or like place of amusement, shall be one hundred dollars per annum in towns and cities of more than twenty thousand inhabitants for the state and fifty dollars for the county, and in all other places, fifty dollars per annum to the state and one-half of this amount to the county. This license shall be due and payable by the person, owner, or proprietor of the establishment, store, or place of business in or at which such slot machine is located, and the state shall have a lien for the payment of such license upon such machine, which lien may be enforced by attachment.

As amended, July 27, 1907, p. 503, § 1.

61 (53). **Menageries and museums.**—For each exhibition of menageries or museums, twenty-five dollars. See, also, circuses, concerts, and exhibitions.

As amended, Mar. 5, 1901, p. 238.

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

As amend- 62 (55). **Mercantile agencies.**—See commercial agencies.

ed, Mar.
5, 1901,
p. 288.

As amend-
ed, Mar.
5, 1903,
p. 210.

63 (55½). **Merchandise brokers.**—For each merchandise broker in cities of twenty-five thousand inhabitants or more, twenty-five dollars; in cities of five thousand inhabitants and less than twenty-five thousand inhabitants, fifteen dollars; in cities of five thousand and less than ten thousand inhabitants, ten dollars; in towns of twenty-five hundred inhabitants and less than five thousand, five dollars; in towns of less than twenty-five hundred inhabitants, two dollars and fifty cents.

Aug. 2,
1907, p.
502, § 1.

64 (56). **Money lenders.**—Every person, firm, or corporation whose principal business is lending money, and who has a fixed place of business for such purpose, shall pay an annual license of one hundred dollars, and this subdivision shall apply to all corporations engaged in the business, whether organized under the laws of this state or any other state or country, but shall not apply to banks or banking institutions regularly organized as such; the payment of a tax in one county of the state, as evidenced by the license or official certificate of the probate judge, shall be sufficient.

As amend-
ed, Mar.
4, 1903,
p. 212.

65 (57). **News companies.**—Each person, firm, or corporation engaged in the business commonly known as news companies, and selling books, papers, fruits, or conffectionery or other articles on railroad trains operated within this state, shall pay annually a license tax of one hundred dollars, and the payment of this license in any one county in the state shall be sufficient, and it shall not be required in any other county in the state; and no county license shall be charged for any license issued under this subdivision. And any news company which shall have paid the license specified in this subdivision shall be entitled to receive from the state auditor upon exhibition to him of such license a certificate for each agent which it may employ for making such sales, and shall, whenever an inspection of the same is demanded by any officer authorized to collect state revenues, exhibit the same to such officer as evidence of his right to do business. And no agent of such news company shall carry on any such business or make any such sales unless he shall have such certificate with him. Any agent of any such news company who shall make any such sales or carry on any such business without having such certificate with him shall be subject to arrest, and shall upon conviction be fined ten dollars. Any news company which has paid for and taken out a license in any one county to sell cigarettes, cigars, and tobacco, or playing cards, shall be authorized to sell such articles on any train in the state in which they may run.

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

66 (58). **Oils.**—Each agency, person, firm, or corporation selling illuminating or lubricating oils, or fuel oils at wholesale, that is to say, in quantities of twenty-five gallons or more, shall pay a privilege or license tax to the state, of one-half of one per cent on their gross sales; and the state auditor is authorized and directed to collect and pay such privilege tax into the state treasury, and with the approval of the state tax commission may collect and receive a gross sum as said privilege or license tax from any corporation, firm, person, or agency selling oils in this state, and said gross sum may be so received and collected in place of and in full settlement of said license tax, so that oils upon which said gross sum has so been paid in full settlement shall not be subject to the license tax imposed by this section. And this license shall run as other licenses in the state, from January to January; provided the state tax commission may require sworn statements to be made by agencies, persons, firms, or corporations, of their gross amounts of sales for the previous calendar year, which may be accepted with the approval of the state tax commission for fixing the amount of said license for the current year. Any agency, person, firm, or corporation failing to make sworn statements when so required, forfeits to the state three times the amount of said license.

As amended, Mar. 4, 1908, p. 218.

67 (60). **Patent rights.**—Each person who shall sell or offer to sell the right to manufacture, or use, any machinery or other thing patented under the laws of the United States, for each county in which he shall sell or offer to sell such patented machinery or other thing, five dollars.

As amended, Mar. 5, 1901, p. 289.

68 (59). **Pawnbrokers.**—For each pawnbroker, one hundred and fifty dollars; but this shall not be construed to allow the sale of pistols, unless an additional license of fifty dollars is paid.

As amended, Mar. 4, 1908, p. 214.

69 (61). **Peddlers.**—For each peddler of medicine or other articles of like character, one hundred dollars for each county in which they peddle; fifty dollars of said amount to be paid to the county in which said license is paid, and fifty dollars to go to the state; and for each peddler of spectacles or eye glasses, five dollars for each county in which they peddle; for peddlers of medicine with vocal or instrumental music, or both, one hundred dollars for each county in which they peddle; for peddlers in wagon drawn by one horse, or other animal, twenty-five dollars; in a wagon drawn by two horses, or more, or other animals, thirty-five dollars; on a horse, or other animal, fifteen dollars; on foot, ten dollars; when accompanied by singers or performers on any musical instruments, one hundred dollars; but peddlers of tinware only, and peddlers

Ib. (r.c.c.)

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

of wooden and stone or clay hollow ware only, and tanners who manufacture leather goods and peddle these only, shall not be required to procure license. A peddler's license shall entitle him to peddle only in the county where it is taken out. Any person may demand of peddlers, itinerant dealers, and traveling agents their license, and unless they exhibit the same, or show that they have a right under the law to peddle the articles carried by them, or carry on the business they are engaged in without a license, such person may, and is hereby authorized, to arrest such peddler, itinerant dealer, or traveling agent, and carry him before the nearest county court judge, justice of the peace, mayor, recorder, intendant of any town, or notary public exercising the power of a justice of the peace, and such officer before whom such peddler, itinerant dealer, or traveling agent is carried must, if he finds such person to be dealing without a license, forthwith issue a warrant for his arrest, returnable to any court of the county having criminal jurisdiction, which warrant may be executed by the sheriff, or by any constable of the county, any city or town marshal, policeman, or any officer having authority to make arrests. It shall, however, be lawful for any person having but one arm or leg, or whose sight has been impaired as a result of exposure, injury, or disease during his service in the Confederate army, or any other disabled Confederate soldier who is permanently disabled from any cause, or any person who has lost his eyesight in any way so that he is incompetent to perform manual labor, or any other person who is unable to perform manual labor (if he shall secure the certificate of a physician and the certificate of the judge of probate of such facts), to peddle in any county in the state free of license; nor shall this subdivision be so construed as to require a license of peddlers of fish, oysters, game, fresh meats, poultry, fruit, and all farm products raised by the seller. For each peddler of clocks doing business in this state, a license tax of five hundred dollars and a county license tax of two hundred and fifty dollars for each county in which such business is carried on. All the citizens of this state, who have resided here for five years, and who were soldiers of the Confederate States of America, or engaged in the naval service thereof, and do not own property exceeding in value one thousand dollars, may peddle any produce or merchandise in any and all the counties of this state, except in any incorporated village, town or city, without the payment of the license required of such peddlers. Any such soldiers or sailors desiring such licenses to peddle must apply to any judge of probate in this state, and make and submit his proof of having been such soldier or sailor, and if it is sufficient to satisfy said judge, he

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

shall issue the license without payment of money therefor, and such license shall be authority to peddle such commodities in any of the counties of this state; but there shall be no peddling of patent medicines by persons exempted from taking out a license to peddle.

Agent for non-resident merchant not subject to license.—*Ex parte Murray*, 93 Ala. 73 (8 So. 868). Agent of foreign corporation selling goods by sample not within statute.—*Ballou v. State*, 87 Ala. 144 (6 So. 393). License issued to partnership protects each member.—*Shiff v. State*, 84 Ala. 454 (4 So. 419). Statute exacting license for peddling but exempting domestic manufacturers, unconstitutional and void.—*Vines v. State*, 67 Ala. 73.

70. **Peddlers of drugs; itinerant doctors.**—Any itinerant vendor of any drug, poison, ointment, or any appliance of any kind, intended for treatment of any disease or injury, who shall by writing or printing, or any other method, publicly profess to cure or treat diseases, or injury or deformity, by any drug, nostrum, or manipulation, or other expedient, shall pay a license of one hundred dollars per annum to the state.

As amend-
ed, Feb.
18, 1897,
p. 1450,
§ 6.

71 (62). **Photographers.**—For each traveling photograph gallery going from county to county in railroad car, twenty-five dollars; for each traveling photographer traveling in any other way, five dollars. Payment of this license tax in any county, evidenced by the receipt of the probate judge, shall relieve the party from further license tax for such business of that year.

As amend-
ed, Mar.
4, 1903,
p. 216.

71a. **Pictures or picture frames.**—For each person, firm, or corporation, either in person or through agents, who solicits orders for the enlargement of photographs or pictures of any character, or for picture frames, whether they make charge for such frames or not; or for each person, firm, or corporation, either in person or through agents, who sells or disposes of picture frames, twenty-five dollars in each county in which they may do business; but this subdivision shall not apply to merchants or dealers having a permanent place of business in the state and keeping picture frames as a part or all of their stock in trade.

Mar. 7,
1907, p.
403, § 17.

72. (68). **Pig iron storage companies.**—Any person, firm, or corporation operating yards or inclosures for the purpose of storing pig iron therein, and issuing warrants thereon, or receipts therefor, shall pay to the state annually for each such yard or inclosure, fifty dollars.

As amend-
ed, Mar.
4, 1903,
p. 217.

73 (63). **Pistol, bowie or dirk knives.**—For dealers in pistols, bowie or dirk knives, brass knucks, whether principal stock in trade or not, fifty dollars.

1b., p. 216.

74. (64). **Pistol or rifle cartridges.**—Dealers in pistol or rifle cartridges, in towns or cities of twenty thousand or more

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

As amend- inhabitants, fifty dollars. In towns of more than ten thousand
ed, Mar. and less than twenty thousand inhabitants, twenty-five dollars.
5, 1901, In all other places, ten dollars.
p. 242.

As amend- 75. (67). **Plumbers or gas fitters.**—For each person, firm, or
ed, Mar. corporation doing business of a plumber and gas fitter, or
4, 1903, either, in towns and cities of ten thousand or more inhabitants,
p. 217. twenty-five dollars; in all other places, ten dollars.

As amend- 76 (66). **Pool tables.**—For each pool table upon which the
ed, Mar. game of pin pool is played, one hundred dollars. For each
5, 1901, table upon which a game of pool is played, with fifteen balls,
p. 242. more or less, and not pin pool, which is kept in connection with
the business of a barroom or drinking saloon, whether com-
pensation is charged or not, fifty dollars. For each table upon
which a game of pool is played with fifteen balls, more or less,
and not pin pool, for the use of which money or other things
of value is charged, and not kept in connection with a barroom
or drinking saloon, twenty-five dollars.

Keeping pool table without license; insufficiency of indictment.—Hill v. State, 120 Ala. 329 (24 So. 929).

As amend- 77 (65). **Public halls.**—For each public hall let to hire, in
ed, Mar. towns or cities of five thousand or more inhabitants, twenty-
5, 1903, five dollars; of less than five thousand inhabitants and more
p. 217. than two thousand inhabitants, fifteen dollars; in all towns of
two thousand inhabitants or less, ten dollars.

As amend- 78 (69). **Race tracks.**—For each public race track, at or
ed, Mar. within five miles of any city or town containing less than five
5, 1901, thousand inhabitants, one hundred dollars; at or within five
p. 243. miles of any city or town containing more than five thousand
inhabitants, two hundred dollars.

1b. 79 (70) **Railroad ticket broker.**—Each railroad broker,
otherwise known as scalper, or other railroad ticket agent,
except agents actually employed by some railroad, shall pay to
the state the following license tax: In cities or towns of ten
thousand inhabitants or over, one hundred dollars; in cities or
towns of less than ten thousand inhabitants, fifty dollars.

As amend- 80 (71) **Real estate brokers or agents.**—Each person, firm,
ed, Mar. or corporation engaged in buying, selling, or renting real estate
4, 1903, on commission shall pay to the state the following license
p. 217. taxes: In cities or towns of ten thousand inhabitants or over,
fifteen dollars; in cities or towns of less than ten thousand
inhabitants and more than five thousand inhabitants, ten dol-
lars; in all other places, five dollars.

Mar. 7, 80a. **Pianos and organs.**—For each person, firm, or corpora-
1907, p. tion engaged in the business of selling or delivering pianos or
403, § 11½ organs in this state, either in person or by agent, or consignee,

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

one hundred dollars for each county in which they may so sell; but this license shall not apply to merchants or dealers having a permanent place or places of business in this state and keeping said articles as a part or all of their stock in trade. Such persons, firms, or corporations having a permanent place or places of business in this state and keeping said articles as part or all of their stock in trade shall pay to the state an annual license of one hundred dollars, to be paid in the counties in which such permanent place or places of business is established, and the payment of such license in such counties as evidenced by the official certificate of the judge of probate shall be sufficient, notwithstanding they may so sell in other counties.

82 (75). **Shooting galleries.**—For each shooting gallery, fifteen dollars.

As amended Mar. 5, 1901, p. 245. Ib.

83 (76) **Side shows.**—See circuses.

84 (73) **Skating rink.**—For each skating rink, twenty-five dollars.

Ib. p. 244.

85 (71½). **Social clubs of men.**—Each social club at which spirituous, vinous, or malt liquors are sold at retail to members or others, or furnished to members, shall pay the same license as is required of other retail liquor dealers in the same vicinity, any provision in the charter of any such club exempting it from the payment of such license to the contrary notwithstanding. All laws and parts of laws, general or special, in conflict or inconsistent with the provisions of this subdivision, are hereby repealed.

Amended, Mar. 4, 1903, p. 218. (r.c.c.)

(Aikin's Digest, p. 410, §§ 8, 10, 12, 13; Clay's Digest, pp. 68-70; pp. 560, 561, §§ 12-17; pp. 562, 563, §§ 26-28; Dec. 12, 1884, p. 3, § 14; (Note.—These subdivisions refer to revenue acts [sub. 3], Feb. 18, 1895, p. 1192, § 48; [sub. 6], Dec. 10, 1892, p. 71; [sub. 7], Feb. 18, 1895, p. 1192, § 45; [sub. 15], Feb. 17, 1885, p. 70; [sub. 27], Dec. 13, 1892, p. 183; [sub. 28], Feb. 18, 1895, p. 1192, § 44; [sub. 29], Feb. 28, 1889, p. 93; [sub. 30], Dec. 11, 1885, p. 31, § 5, sub. 18; [sub. 31], Feb. 18, 1895, p. 885; Dec. 12, 1884, p. 3, § 14, sub. 9; [sub. 39], Feb. 5, 1891, p. 268; [sub. 41], Feb. 18, 1897, p. 1489, § 35. Original statutes regulating taxes and revenue from 1809 to 1823.—Toulmin's Digest, pp. 733 et seq.

85a. **Soda fountain.**—For each person, firm, or corporation operating a soda fountain, where non-alcoholic or soft drinks or beverages are dispensed, five dollars.

Mar. 7, 1907, p. 403, § 13.

86 (77). **Stocks and bonds, dealers in.**—Each person, firm, or corporation dealing in stocks and bonds, thirty-five dollars.

As amended, Mar. 4, 1903, p. 219.

87 (72). **Supply cars.**—The owner, conductor, or person in charge of every supply car, or car from which any goods, wares, or merchandise are sold, whether to the servants of the railroad company or to others, must pay a license of one hundred dollars; and the person so licensed shall thereby be entitled to carry on such business in the car therein named, in any county in which such car is run or drawn; but each such county may charge a license therefor of ten dollars.

As amended Mar. 5, 1901, p. 244.

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

As amend-
ed Mar.
4, 1908,
p. 220.

88 (81). **Telephone companies.**—Each telephone company, person, firm, or corporation operating a telephone line or lines in towns and cities of twenty thousand inhabitants or more, fifty dollars; in towns or cities of less than twenty thousand inhabitants and more than ten thousand inhabitants, twenty-five dollars; in towns and cities of less than ten thousand inhabitants and more than one thousand inhabitants, ten dollars; in all other places, five dollars. This tax shall not apply to private individuals who operate a line between private residences for private use and where no rental is charged. Provided that section 2084 (3912), subdivision 3, be repealed so far as the same relates to telephone companies.

As amend-
ed Mar.
5, 1901,
p. 245.

89 (78). **Ten pin alleys.**—See bowling alleys.

As amend-
ed Mar.
1, 1907,
p. 408,
§ 16.

90 (79). **Theaters.**—For each theater in towns or cities containing more than twenty thousand inhabitants, one hundred dollars; for each theater in towns or cities containing more than eight thousand inhabitants, fifty dollars; this amount, fifty dollars, shall also be charged for license for open-air or summer theaters, such as at Mobile on the bay shore; East Lake, in Jefferson county, and Electric Park or Pickett Springs, in Montgomery county; in towns or cities containing less than eight thousand and more than three thousand inhabitants, twenty-five dollars; in towns and cities of less than two thousand inhabitants, twenty dollars; this license shall only extend to dramatic, legerdemain, acrobatic, and operatic exhibitions given in the building so licensed, and if any doubt arises as to the character of the entertainment proposed to be exhibited in any theater, the judge of probate of the county in which the theater is situated shall determine whether or not it is covered by theatrical license.

91 (38). **Toll bridges.**—For each toll bridge, or bridges, or ferries, where thoroughfare tolls are charged for animals or vehicles crossing the same when not within two miles of the corporate limits of a town or city of two thousand inhabitants, where the income is more than three hundred and less than six hundred dollars per annum, five dollars; for same, in or within two miles of the corporate limits of any town or city of two thousand inhabitants and less than five thousand, fifty dollars; for same, in or within two miles of the corporate limits of a town or city of five thousand inhabitants or more, seventy-five dollars; but when the gross income of any ferry within two miles of the corporate limits of a town of over two thousand inhabitants does not exceed twelve hundred dollars, in any one year, the license for such ferry shall be twenty-five dollars.

As amend-
ed Mar.
7, 1907,
p. 408,
18.

92 (82). **Warehouses.**—For each person, firm, or corporation operating a warehouse or elevator for the storage and handling of cotton, a license tax to the state as follows: Every

License Taxes; From Whom and for What Businesses Required; Prices; County Levy.

such warehouse storing not more than ten thousand bales in any one year, twenty-five dollars; more than ten thousand and not more than twenty thousand, fifty dollars; more than twenty thousand and not more than thirty thousand bales, seventy-five dollars; more than thirty thousand bales, one hundred dollars.

93 (83). **Waterworks companies.**—See electric light companies.

Amended,
Mar. 5,
1901, p.
246.
(r.c.c.)

In all cases in this section where population controls the price of licenses, the last census report of the federal government shall govern. The licenses herein set out are payable on the first day of January, and the amount of privilege tax levied in this section is intended as per annum tax, unless otherwise specified. Whenever any one has paid more license for the current year than is required by this section, they shall be entitled to receive from the treasury of the state and county the excess of license so paid; but this shall not in any way interfere with subdivision 66 (58) of this section of this Code.

License required of social clubs; what business intended to be taxed.—*Manassas Club v. Mobile*, 121 Ala. 561 (25 So. 628). Legislative power to impose occupation or privilege tax on corporations; right of probate judge to demand payment of county taxes; mandamus to compel issuance of license.—*Phoenix Co. v. State*, 118 Ala. 143 (22 So. 627).

Grant v. State, 73 Ala. 13; *Johnson v. State*, 44 Ala. 414.

Mosby v. State, 98 Ala. 50 (13 So. 148).

Porter v. State, 58 Ala. 66.

Randolph v. Yellowstone Kit, 83 Ala. 471 (3 So. 706).

Shiff v. State, 84 Ala. 454 (4 So. 419).

Action to recover of corporation license fee for doing business in the state.—*So. Car Co. v. State*, 133 Ala. 624 (32 So. 235). Sale by one corporation to another of stock, property and business does not assign license; interest recoverable on unpaid license.—*So. Car Co. v. State*, 133 Ala. 624 (32 So. 235). Manufacturers of commercial fertilizers subject to license.—*Troy Fertilizer Co. v. State*, 134 Ala. 333 (32 So. 618). Corporation de facto; failure to pay license fees.—*Owensboro Co. v. Bliss*, 132 Ala. 253 (31 So. 81). If corporation exercise any of the functions, powers or franchises it is liable to tax; rolling mill, liability of.—*State v. Anniston Rolling Mills*, 125 Ala. 121 (27 So. 921).

2362. (4123) (630) License for county purposes; amounts, how determined.—The court of county commissioners of each county except in the cases otherwise provided may at any regular or special term add to the license taxes specified in the last preceding section such amounts not exceeding fifty per cent of such taxes for county purposes as, in their judgment, may be necessary, and no license shall be issued without the payment of such percentage for county purposes.

Amended,
Sep. 30,
1908, p.
298, § 4.
(r.c.c.)

(Feb. 28, 1887, p. 3, § 16; Feb. 17, 1885, p. 21, § 48.) Amount authorized to be added to state license tax; right of commissioners to sue for or collect fees.—*So. Car Co. v. Calhoun Co.*, 141 Ala. 250 (37 So. 425). One corporation cannot avail itself of license issued to other corporation whose property was

Franchise Tax of Common Carriers.

used by it.—*So. Car Co. v. Calhoun Co.*, 141 Ala. 250 (37 So. 425); *So. Car Co. v. State*, 133 Ala. 624 (32 So. 235). The amendment of Mar. 4, 1903, p. 184, repealed general and special laws, and was not revived by act of Sept. 30, 1903, p. 298.—*Gaston v. O'Neal*, 145 Ala. 484 (41 So. 742), *Tyson, J., dissenting.*

Mar. 7,
1907, p.
408, § 28.
(r.c.c.)

2363. Lien of state for license taxes.—The state and counties shall have a lien superior to all other liens upon the goods, wares, and merchandise used in any business for the doing of which a license is required by the state, which said liens may be enforced by attachment, in one and the same suit, and in the name of the state.

ARTICLE 19.

FRANCHISE TAX OF COMMON CARRIERS. 2364-2390.

SECTION.

- 2364.** Tax on franchises; intangible property and assets of common carriers declared.
- 2365.** Franchise tax in addition to ad valorem tax; how levied and collected.
- 2366.** Statement by common carriers to be made to state tax commissioner.
- 2367.** Contents of such statement.
- 2368.** Additional statement for express companies.
- 2369.** State tax commission receives statements and demands additional ones.
- 2370.** Hearing and proceeding of tax commission upon examination of statement by common carriers.
- 2371.** Market or true value of stock, and of indebtedness and property as basis of fixing taxable value.
- 2372.** Assessed value of tangible property deducted from entire value.
- 2373.** Common carriers doing interstate business; tax value, how fixed.
- 2374.** Taxes and values apportioned among the several counties and towns of this state.
- 2375.** Other modes of fixing values may be adopted by commission.
- 2376.** Notice to common carriers of tax valuation fixed; service of.

SECTION.

- 2377.** Owner may file statement and have hearing or investigation fixing tax value.
- 2378.** Appeal from hearing to circuit court by owner.
- 2379.** Appeal by either party to supreme court.
- 2380.** Individuals as common carriers; capital or property used in business deemed capital stock.
- 2381.** Report of state tax commission to tax assessors in various counties; contents of.
- 2382.** Assessment and collection by county.
- 2383.** Effect of franchise tax upon ad valorem tax and tax upon shares of stock in corporation.
- 2384.** Failure to comply with provisions of this article; forfeiture and penalty for.
- 2385.** Tax commission may acquire information from other sources.
- 2386.** Property in hands of receiver, assignee, trustee, etc.
- 2387.** Exceptions from tax on gross receipts.
- 2388.** State board of assessment may perform duties of state tax commission.
- 2389.** Form and sufficiency of tax assessments under this article.
- 2390.** Suit or action for collection of taxes.

Mar. 4,
1907, p.
284, § 1.

2364. Tax on franchises, intangible property, and assets of common carriers declared.—There shall be subject to taxation

Franchise Tax of Common Carriers.

in this state, the franchises, or intangible property and assets of each and every corporation, whether organized under the laws of this state or of any other state or government, and of each and every individual, association, partnership, or company engaged as common carrier wholly or partly in this state, in the business of transporting freight of any description or passengers, or both, over any railroad, including street railroads, or of operating any cars of any kind over any railroads for the transportation of passengers or of property of any kind for others or for the public, including sleeping cars, parlor or palace cars, dining cars, chair cars and cars of any and every other kind, or engaged in the business of maintaining or operating for gain any telegraph or telephone lines, plant, or business, or any plant or business for the production, manufacture, distribution, or sale of gas, electricity, electric light, electric power, water, steam heat, and refrigerated air, or other similar substances; by means of wires, pipes, or conduits constructed, operated, or maintained on, over, under, or through any territory or any street, alley, or highway in this state; or in the business of operating for gain any dockage, wharfage, canal, freight, or passenger depots, stations, or terminals; or engaged in any other business which may be dependent upon the grant of public powers or privileges, or which may involve the operation of any public utility; and of each and every individual, association, partnership, company, or corporation which has and exercises, under authority granted by charter, statute, or other provision of law, whether of this state, of any political subdivision thereof, or of any other state or government, any special or exclusive privilege, franchise, or function, which is or may be dependent upon the grant of public power or privileges, or which involves the operation of any public utility.

2365. Franchise tax in addition to ad valorem tax; how levied and collected.—Every individual, association, partnership, company, and corporation engaged in any business embraced or set out in the preceding section shall, in addition to the ad valorem taxes on tangible property which are now imposed upon them by law, annually, beginning with the year 1907, pay to the state, and there is levied a tax for the year 1907 and for each year thereafter, on their franchises, or intangible property and assets, and local taxes thereon, to each county and municipal corporation in which its or their business is or shall hereafter be carried on. Said tax shall be at the same rate as the tax on tangible property, and shall be and become due and delinquent at the same time as the taxes on tangible property, and be payable and collected in the same manner, and shall be assessed and levied in the manner herein-

Mar. 4,
1907, p.
284, § 2.

Franchise Tax of Common Carriers.

after provided. The place or places where such local taxes on such property are to be paid, and the manner of the apportionment of the same in cases where more than one jurisdiction is entitled to a share of such tax, shall be determined, and the valuation of such property for taxation shall be ascertained in accordance with the provisions of this article.

Mar. 4,
1907, p.
284, § 3.

2366. Statement by common carriers to be made to state tax commissioner.—On or before the first day of June, 1907, and between the first day of January and the first day of March in each subsequent year, every company, corporation, association, and individual embraced within the provisions of section 2364 of this article, or coming otherwise within its scope and intent, shall make out and deliver to the state tax commission of Alabama a statement containing the information hereinafter prescribed, which statement shall be duly verified by the affidavit of one of the officers of the company, corporation, or association, or by the individual in whose behalf it is made.

Ib., § 4.

2367. Contents of such statement.—Each such statement shall show the following items and particulars as the same stood on the next preceding first day of October, together with any other facts or information that may be called for by said commission:

1. The name and principal place of business of the company, corporation, association, or individual in whose behalf the statement is made, and the character of business engaged in.

2. If a company, association, or corporation, the state or government under the laws of which it was incorporated, or authorized to do business, the date of original organization, the date of the reorganization, consolidation, or merger, and the purposes of its incorporation as expressed in its charter or articles of association.

3. The place where all books, papers, and accounts are kept, and the names and postoffice addresses of the president, secretary, cashier, treasurer, superintendent, general manager, general counsel, directors, and all other general officers thereof.

4. The locality of its principal office and the total amount and kind of business done by it in this state, and the total gross receipts derived from its business in this state, including a due proportion of its interstate business, if it has done any business of that character.

5. Its total authorized capital stock and the number of shares of stock issued and outstanding, and the par or face value of each such share.

6. The market value of said shares of stock; if they have no market value, then the statement must show the actual value

Franchise Tax of Common Carriers.

thereof, and the highest price at which any share has been sold during the next preceding twelve months.

7. A brief description of each tract of real estate and of the improvement thereon, and of the buildings, structures, machinery, fixtures, and appliances, and all other tangible property and assets owned and assessed, or liable to assessment for the same year, within this state, and the location and assessed value thereof, and the county, city, or town wherein the same is assessed for taxation for state and county and municipal purposes, or is liable to assessments.

8. A brief description of each tract of land and of the improvement thereon, and of the buildings, structures, machinery, fixtures, and appliances, and of all the other tangible property and assets owned and held outside of this state, and of all other property and assets having a fixed situs outside thereof, and the location of each item of such property, and the purpose for which it is used, and whether or not it is specifically used in the business of the company, corporation, or association, or individual in whose behalf the report is made, and its true and fair market value, and the sum or value at which it is assessed for taxation, and the locality in which it is assessed.

9. A statement of each and every lien, mortgage, and other charge upon the whole or any part of the property of said company, corporation, association, or individual, and detailed statement of all series of bonds, debentures, or other securities forming a part of its funded debt, with date of issue, maturity, and rate of interest, together with a statement of the property encumbered or charged thereby, and of the total amount of unpaid debts secured by each such mortgage lien or charge, and of the interest charged thereon, and to what extent interest has been paid, and the true and fair market value of every such debt.

10. A statement of the gross income and earnings, and a statement of the net income and earnings for the next preceding twelve months, including therein all interest on investments, and all rents, fruits, revenues, and receipts from every source whatsoever, and a statement of the income used for repairs, and of the amount used for betterment and the amount used for extensions.

11. Every railroad company and telegraph company, and every telephone company and every pipe line company, shall show in each statement made by it the following particulars, which are in addition to the foregoing requirements, to wit: (a) the total lengths of all the lines of said company, whether within or outside this state, and (b) the total length of so much of said lines as are within this state, and (c) the length of its lines in each of the counties and cities or towns of this state

Franchise Tax of Common Carriers.

into or through which its lines extend. The length of the lines of the telegraph companies and telephone companies shall be estimated and stated according to its mileage of poles, conduits, or cables, or either.

12. Every sleeping car company, parlor or palace car company, dining car company, chair car company, and company operating cars of any and every other kind over any railroad, shall also, and in addition to the said foregoing requirements, show by each of its said statements, (a) the total mileage traveled by the cars of the said company during the next preceding twelve months, whether within this state or beyond its borders, and (b) the total mileage traveled by such cars within the state during the same period, and (c) the total mileage traveled by such cars within each county and each city or town in this state during said period.

Mar. 4,
1907, p.
284, § 4.

2368. Additional statement for express companies.—Every express company shall also, in addition to the foregoing requirements having application to such company, show (a) its total gross receipts from all business done under its charter, whether within this state or outside thereof, during the next preceding twelve months, and (b) its total gross receipts within this state for the same kind of business done during the same period, including a due proportion of receipts from interstate business, and (c) its total gross receipts in each county and in each city or town in this state for the same kind of business done during the same period.

ib., § 5.

2369. State tax commission receives statements and demands additional ones.—The state tax commission of Alabama shall receive all such statements offered to it under the provisions of this article, and shall endorse upon each the date on which it was received, and sign the endorsement officially. It shall examine the statements as soon as may be practicable, and if any of them be found to be insufficient, or if said commission shall believe other or further information to be necessary, it shall at once demand such additional statements and information as it may think proper.

ib., § 6.

2370. Hearing and proceeding of tax commission upon examination of statement by common carriers.—The state tax commission shall carefully examine and consider the said statements and information, and shall hear evidence and secure further and additional information so far as may be in its power, and whenever it may deem it necessary so to do, to show the true value of the properties of such corporations, companies, and individuals, and the true value of that portion thereof which is situated within this state and within the respective counties and cities and towns in this state; and

Franchise Tax of Common Carriers.

each interested company, corporation, association, or individual may appear before said commission and introduce material and relevant testimony before the same, touching the true value of its said property within this state and the apportionment thereof. From these statements, evidence and information adduced before it the state tax commission shall ascertain, fix, and determine the true value of such property, and of the portion thereof which is situated within this state, and the respective values of the several portions within the different counties and cities or towns in this state in which such portions are taxable, and for that purpose said commission may require and compel by subpoenas to be issued by it any person or persons, or the officers and agents, or any of them, of any company, corporation, or association embraced within the provisions of this article, to appear before it with such books, papers, documents, and information as the commission may require, and to submit themselves to examination by said commission, and it shall have all the powers with respect thereto conferred upon it by the article creating said commission.

2371. Market or true value of stock and of indebtedness and property as basis of fixing taxable value.—In so far as the other evidence and information adduced before said commission does not make it appear to said commission improper or unjust for them so to do, the said commission shall, in fixing the true tax value of the entire property, tangible and intangible, of any company, corporation, association, or individual embraced within the provisions of this article, take as a basis therefor the aggregate market or true value of all its shares of stock —, and add thereto the market or true value of its entire indebtedness secured by any mortgage, lien, or other charge upon its property and assets, and the sum so produced shall be deemed and treated as the true cash value of said entire property, tangible and intangible.

Mar. 4,
1907, p.
284, § 7.

2372. Assessed value of tangible property deducted from entire value.—From the value of said entire property, tangible and intangible, thus ascertained, there shall be deducted the assessed value of the entire tangible real and personal property of such person, association, company, or corporation, and the remainder of true value be by said state tax commission fixed and determined as the true value for taxation of the franchises, or intangible properties owned and held by said persons, associations, company, or corporation, and made subject to taxation by the provisions of this article where the business and property of such person, association, company, or corporation is within this state.

1b.

Franchise Tax of Common Carriers.

Mar. 4,
1907, p.
284, § 7.

2373. Common carriers doing interstate business; tax value; how fixed.—Where the person, association, company, or corporation operates a railroad or car line of any kind, or telegraph line, or pipe line, the lines of which extend beyond this state, there shall also be deducted from the true cash value of the entire property, tangible and intangible, ascertained as above provided, the market or true value, ascertained from the information furnished by said statements, if the value thereof be given in said statements, of all real and personal property of said person, association, company, or corporation not specifically used in its business, and the remainder shall be treated as the true cash value of all its property, tangible and intangible, actually used in this business. The state tax commission shall then ascertain and fix the value of the total property, tangible and intangible, in this state by taking such proportion of the cash value of the entire property, tangible and intangible, of such person, association, company, or corporation which is specifically used in its business, ascertained as provided in this article, as its total lines within this state bears to the total lines both inside and outside of this state, or as its total receipts from within this state bears to its total receipts from both within and without this state. From the entire value of the property within this state, tangible and intangible, when ascertained as above provided, there shall be deducted the total assessed value for taxation of the entire real and personal property of said person, association, company, or corporation in this state, and the residue and remainder of value shall be by said state tax commission fixed and determined as the true value for taxation of the franchise or intangible property of such person, association, company, or corporation so operating said railroad, car line, telegraph line, telephone line, or pipe line made subject to taxation by the provisions of this article.

Ib.

2374. Taxes and values apportioned among the several counties and towns of this state.—The state tax commission shall apportion the value of such franchises or intangible property thus ascertained as in this article provided, among and between the counties and cities or towns in which such person, association, company, or corporation does business, in proportion to the amount of business done in and receipts derived from each locality, except that in case of a railroad or railway company, telephone and telegraph company, and electrical power companies, car company other than express companies, or of a pipe line, the apportionment to each county and to each city or town shall be in addition to the line mileage or car mileage therein.

Franchise Tax of Common Carriers.

2375. Other modes of fixing values may be adopted by commission.—The state tax commission shall make use of all evidence put before it, and of all material facts at its command, in valuing the aforesaid properties, and if it shall believe some other method of calculation than that herein specifically prescribed is necessary in order to produce just and lawful results, it shall follow the method which, under all the circumstances, it believes best calculated to bring about a fair and equitable valuation of such property. Mar. 4,
1907, p.
284, § 7.

2376. Notice to common carriers of tax valuation fixed; service of.—Within twenty days after making the valuation of any such franchises or intangible property, the state tax commission shall give notice in writing by registered mail, addressed to or by personal service on any officer, superintendent, cashier, or manager of the owner of said franchises or intangible properties, stating the valuation fixed by it and that on a day specified, not less than twenty nor more than thirty days thereafter, it will meet to hear and determine any complaint against said valuation, which notice must be served at least ten days before the day fixed for the hearing. Ib., § 7½.

2377. Owner may file statement and have hearing or investigation fixing tax value.—At the hearing the owner may file a statement, under oath, specifying the respect in which the valuation is incorrect, upon which testimony may be taken and a full investigation had. Ib.

2378. Appeal from hearing to circuit court by owner.—From the final decision of the commission on the hearing the owner may appeal to the circuit court, or court of like jurisdiction, of Montgomery county, within thirty days, upon giving bond with two sureties, to be approved by the state tax commission and payable to the State of Alabama, in double the amount of state and county taxes lawfully due or to become due on such assessment or valuation as finally determined on said hearing, conditioned to prosecute said appeal to effect and to pay all lawful taxes which may be held by the court to be or become due on said franchises or intangible property, according to such valuation as may be determined by the court. The trial upon said appeal shall be de novo, and the court shall render judgment against appellant for such taxes as may be or become lawfully due on said property. Ib.

2379. Appeal by either party to supreme court.—From the judgment of said court either party may appeal to the supreme court within thirty days from the rendition of said judgment. Ib.

Franchise Tax of Common Carriers.

Mar. 4,
1907, p.
284, § 8.

2380. Individuals as common carriers; capital or property used in business deemed capital stock.—Whenever any person or association of persons, not being a corporation and having no capital stock, shall engage in this state in any character of business embraced within the provisions of this article, the capital and property, or the certificates or other evidences of the rights or interests of the persons engaged in such business, shall be deemed and treated as the capital stock of such person or association of persons for the purpose of taxation and for all purposes under this article, and shall be estimated and valued, and the intangible property values thereof, when ascertained, shall be apportioned and distributed and assessed and taxed under the provisions hereof, in like manner as if such person or association of persons were a corporation, and each such person and association of persons shall annually, within the time and in the manner provided in this article, make the statements and reports and give the information required by this article of the aforesaid companies, corporations, and associations, and shall be subject to all the penalties and to all the terms and provisions of this article.

Ib., § 9.

2381. Report of state tax commission to tax assessors in various counties; contents of.—The state tax commission, after having first determined and fixed the true cash values of the franchise or intangible property within this state of the individuals, companies, corporations, and associations embraced within the provisions of this article, in accordance with the provisions hereof, shall annually, on or before the first day of July, or as soon thereafter as practicable, report to the tax assessor of every county and local authorities of each city or town in this state in which any part of said franchise or intangible property is taxable under the provisions of this article, a description of the franchise or intangible property taxable therein, and the value thereof apportioned to said county and to said city or town, and the name and residence or place of business of the owner, and all other necessary particulars.

Ib.

2382. Assessment and collection by county.—The said property shall thereupon be assessed by the county tax assessor and local authorities of such city or town for taxation in like manner as other property, and shall be taxed and the taxes thereon shall be collected as in the case of other property.

Ib.

2383. Effect of franchise tax upon ad valorem tax and tax upon shares of stock in corporation.—So long as any corporation, company, or association shall pay all ad valorem taxes on such property required by law, the individual stockholders thereof shall not be required to list their shares of stock for

Franchise Tax of Common Carriers.

taxation, or to pay ad valorem taxes on said shares, nor shall any such company, corporation, association, person, or persons complying with the provisions of this article be required to pay any other state, county, or city ad valorem taxes on any of its intangible property in this state.

2384. Failure to comply with provisions of this article; forfeiture and penalty for.—Every person and association of persons, and every company, corporation, or association embraced within the provisions of this article which shall fail to make the return and statement, or any of them, herein provided, within the time herein limited, or which after reasonable notice shall fail to give any additional evidence, or to furnish any additional information required by the state tax commission by authority of this article, shall forfeit and pay to the state the sum of fifty dollars for every day during which it shall continue in default, which shall be recovered by suit in any court of competent jurisdiction in any county in this state in which the business of such person, association, company, or corporation is carried on.

Mar. 4.
1907, p.
284, § 10.

2385. Tax commission may acquire information from other sources.—If any person, association, company, or corporation embraced within the provisions of this article shall fail to make the returns and statements, or any of them, required by the provisions of this article, or to furnish any other information lawfully required of it within the time limited, the state tax commission shall acquire the necessary information from any other source upon which to base an ascertainment of the value of the intangible property or franchise of such person, association of persons, company, or corporation, and shall proceed to ascertain the value of such property.

Ib., § 11.

2386. Property in hands of receiver, assignee, trustee, etc.—If the property of any person, association, company, or corporation shall be in the hands of any receiver, assignee, trustee in bankruptcy, or other person holding under any court, or for the benefit of any creditor or creditors, then the statements, reports, information, books, and papers aforesaid shall be furnished by said receiver, assignee, trustee, or other persons, or by some officer or agent acting under him, in the same manner and to the same extent as is hereinbefore provided in cases where the individual, or the corporation, company, or association is in possession.

Ib., § 12.

2387. Exceptions from tax on gross receipts.—Upon the compliance with the provisions of this article by the individuals, companies, corporations, and associations hereby affected, and upon the payment of the taxes imposed hereunder, if any are imposed, said individuals, associations, com-

Ib., § 13.

Franchise Tax on Foreign Corporations.

panies, or corporations shall not be required to pay any taxes upon their gross receipts.

Mar. 4,
1907, p.
284, § 14.

2388. State board of assessment may perform duties of state tax commission.—In the event there shall not be a board known as the state tax commission in this state, the returns herein required to be made to said commission shall be made to, and all the powers herein conferred on and duties required to be performed by, said state tax commission, are conferred on and required to be performed by the state board of assessment now authorized by law to assess the tangible property of railroad and other companies, or any board or official hereafter created for such purpose.

ib., § 15.

2389. Form and sufficiency of tax assessments under this article.—In any assessment by state, county, or municipal authority of the franchise or intangible property of any person, association, company, or corporation subject to the provisions of this article, it shall be sufficient to describe the franchise or intangible property herein made subject to taxation on the assessment books or rolls as _____. The portion of _____ (name of county or city or town) of the franchise or intangible property of _____ (name of owner of such franchise or intangible property).

ib., § 15½.

2390. Suit or action for collection of taxes.—In cases where there is no provision of law authorizing the collection of taxes by suit, the taxes which shall become due under the provisions of this article to any county, city, or town may, after the same shall become delinquent, be collected by any county, city, or town by suit in any court of competent jurisdiction.

ARTICLE 20.

FRANCHISE TAX ON FOREIGN CORPORATIONS. 2391-2400.

SECTION.

2391. Franchise tax required of foreign corporations.

2392. Classification of foreign corporations; amount of franchise tax required of each class.

2393. Written statement required of corporation as to franchise taxes; contents of such statement.

2394. Probate judge may review and revise statement as to amount of capital employed.

SECTION.

2395. Appeal from finding of probate judge as to amount of capital.

2396. Payment of franchise tax requisite to doing business.

2397. Payment in one county only.

2398. Not exempt from certain license or privilege taxes.

2399. County franchise tax.

2400. Loans of money upon which mortgage tax is paid, deducted from capital employed.

2391. Franchise tax required of foreign corporations.—Every foreign corporation authorized to do business in this

Franchise Tax on Foreign Corporations.

state, except strictly benevolent, educational, or religious corporations, shall pay annually to a judge of probate of a county in which it has a resident agent, a franchise tax for the use of the state, and for the amounts specified in the next succeeding section.

Mar. 7,
1907, p.
364, § 1;
Const.,
§ 229.

2392. Classification of foreign corporations; amount of franchise tax required of each class.—

Const.,
§ 229.

1. Each foreign corporation whose actual amount of capital employed in this state is one hundred dollars or less, shall pay an annual franchise tax of twenty-five per cent of the actual amount of capital employed in this state by it.

2. Each foreign corporation whose actual amount of capital employed in this state exceeds one hundred dollars and does not exceed one thousand dollars, shall pay an annual franchise tax of twenty-five per cent upon the first one hundred dollars of the actual amount of capital employed in this state by it, and five per cent upon all such remaining actual amount of capital employed in this state by it over one hundred dollars and up to and not exceeding the said limit of one thousand dollars.

3. Each foreign corporation whose actual amount of capital employed in this state exceeds one thousand dollars, shall pay an annual franchise tax of twenty-five per cent on the first one hundred dollars of such actual amount of capital employed in this state by it, and five per cent upon all such actual capital employed by it in this state in excess of one hundred dollars and up to and including one thousand dollars, and one-tenth of one per cent upon all such remaining actual amount of capital employed in this state by it over and above one thousand dollars.

2393. Written statement required of corporation as to franchise taxes; contents of such statement.—The president or other executive head and the secretary of every foreign corporation subject to a tax under this article, shall make a written statement, under their oath, to the judge of probate, showing the name of the corporation, the state or country under whose laws it was incorporated, its principal place of business in this state, the total amount of its capital stock, the actual amount of capital employed in this state, if it is a corporation at the time of the statement authorized to do business in this state, or the actual amount of capital it is proposed shall be employed in this state, if it is a corporation not then qualified to do business in this state.

2394. Probate judge may review and revise statement as to amount of capital employed.—The judge of probate with whom any such statement is filed may summon before him

Franchise Tax on Foreign Corporations.

any of the officers of the corporation, or any other witness, and swear and examine them, and inspect any of the books, papers, or documents of the corporation, and for that purpose may compel their production as courts of equity might do; and if he is satisfied from the evidence thus obtained that the amount of the capital of the corporation actually employed or to be employed, as the case may be, in this state is placed in the statement at a less amount than it should be, he shall demand payment of the tax upon the amount of capital which he finds is actually employed or to be employed in this state.

Mar. 7,
1907, p.
364, § 1.

2395. Appeal from finding of probate judge as to amount of capital.—Either the state or the corporation may appeal from the finding of the probate judge to the circuit court in the same manner as may be done when any court of county commissioners passes upon a contested assessment of property for taxation, and the proceeding subsequent to the appeal shall be the same as in such cases.

1b.

2396. Payment of franchise tax requisite to doing business.—No foreign corporation required to pay a tax under this article shall do any business in the State of Alabama not constituting interstate commerce, or maintain or demand any action in any of the courts of this state upon a contract made in this state other than contracts based upon interstate commerce, unless such corporation shall have paid such tax within sixty days after the same became due.

1b.

2397. Payment in one county only.—The payment of the franchise tax required by this article in any one county shall be sufficient, notwithstanding the said corporation may do business or have a resident agent in more than one county.

1b.

2398. Not exempt from certain license or privilege taxes.—The payment of the franchise tax required by this article shall not exempt any corporation paying the same from the payment of the regular license or privilege tax specified or required for engaging in or carrying on any business for the engaging in or carrying on of which a license is required of individuals, firms, or corporations.

1b., § 2.

2399. County franchise tax.—In addition to the amount of franchise tax required to be paid by each foreign corporation to the state, such foreign corporation shall pay to the county for the use of such county an amount equal to one-half the amount paid by it to the state, and such amount so received shall be paid over by the probate judge to the county treasurer for the use of the county.

July 27,
1907, p.
521, § 1.

2400. Loans of money upon which mortgage tax is paid deducted from capital employed.—In ascertaining the amount of the annual franchise tax which shall be paid by any foreign

Issue and Expiration of Licenses; Refunding License Money.

corporation doing business in this state under this article, there shall be deducted from the amount of the capital employed by such corporation in this state the aggregate amount of loans of money made by such corporations in this state, and which shall be secured by existing mortgage or mortgages to it on real estate in this state, and upon which mortgages there shall have been paid the recording privilege tax provided by law.

ARTICLE 21.

ISSUE AND EXPIRATION OF LICENSES; BLANKS AND FORMS; RECORDS, PAYMENTS AND REPORTS; REFUNDING LICENSE MONEY. 2401-2412.

SECTION.

2401. Unlawful to engage in certain business without license.
2402. Payment for, and issue and contents of license.
2403. Expiration of licenses; time for which issued; exceptions.
2404. Licenses to retailers posted; penalty for failure.
2405. Forms of licenses prepared by auditor; blanks furnished judges of probate.
2406. Stub to be filled up and signed before detaching license.

SECTION.

2407. License record to be kept; annual report and return of unused licenses and stubs; examination by auditor.
2408. License money to be promptly paid over, else no commissions allowed; quarterly reports; penalty.
2409. Auditor to furnish copies of license reports to solicitors; duty of solicitors and grand juries.
2410. Judge of probate to furnish solicitor with list of licenses issued.
2411. When license money refunded.
2412. Application therefor; how money refunded.

2401. (4124) (631) Unlawful to engage in certain businesses without license.—It shall be unlawful for any person, firm, or corporation to engage in or carry on any business, or do any act for which a license is by law required, without having first paid for and taken out a license therefor in the manner in this chapter provided.

Original statute regulating taxes and revenue from 1809 to 1823.—Toulmin's Digest, pp. 733 et seq. (Dec. 12, 1884, p. 3, § 8.) A privilege, license or franchise tax not in violation of constitutions; right of probate judge to demand payment of license or privilege tax; mandamus to compel issuance.—Phoenix Carpet Co. v. State, 118 Ala. 143 (22 So. 627). Sale in more than one place not necessary.—Shiff v. State, 84 Ala. 454 (4 So. 419). Liability of probate judge for failing to collect commission due tax commissioner.—Bountree v. Wood, 132 Ala. 584 (31 So. 451). Probate judge accepting check in payment of license.—Alston v. State, 92 Ala. 124 (9 So. 732). Action at law maintainable to recover amount of license.—State v. Fleming, 112 Ala. 179 (20 So. 846).

2402. (4125) (632) Payment for, and issue and contents of license.—Before any person, firm, or corporation shall engage

Issue and Expiration of Licenses; Refunding License Money.

As amend-
ed, Mar.
4, 1908,
p. 221.

in or carry on any business or do any act for which a license is by law required, he or they shall pay to the judge of probate of the county in which it is proposed to engage in or carry on such business, or do such act, the amount required for such license; and upon payment of such amount, and a fee of fifty cents to the probate judge for the issuance of such license and all costs and fees and penalties which shall have accrued, or for which such person, firm, or corporation shall have become liable in any proceedings commenced for the collection of such license, or to enforce payment thereof, such judge shall issue the license countersigned by him in the form and on a blank to be furnished to him by the state auditor, which shall set forth and specify the name of the person, firm, or corporation applying therefor, the business or act which it is proposed to carry on or do thereunder, the number of the location where it is proposed to carry on the same, if such location shall be in a city or town and have a street number, and if not, then specify the location, the amount paid for such license, and the time for which it is issued; and if the license is for a peddler, whether he proposes to travel on foot or on horseback, or on a wagon; and such license shall not be transferable, nor shall it entitle the holder thereof to carry on any other business or do any other act than that named therein, nor at any other location than that therein specified.

(Dec. 12, 1884, p. 3, §§ 5, 8, 9; Feb. 17, 1885, p. 21, § 53.) **License in no sense a contract.**—Powell v. State, 69 Ala. 10. **License to one firm confers no authority on another, though one person a member of both firms.**—Wharton v. King, 69 Ala. 365. **License to one partner no protection to firm.**—Long v. State, 27 Ala. 32. **When one license sufficient; connecting rooms.**—Hockstadler v. State, 73 Ala. 24.

2403. (4126) (634) Expiration of licenses; time for which issued; exceptions.—All licenses shall expire on the thirty-first day of December, in each year, and shall be for one year, unless the business licensed shall commence after the first of July, in which case the price of the license shall be half the amount of the year's license.

2404. (4128) (636) Licenses to retailers posted; penalty for failure.—All licenses for the retail of spirituous, vinous, or malt liquors must be kept posted up in plain sight near the bar; and a failure to comply with this section forfeits the license.

2405. (4129) (638) Forms of licenses prepared by auditor; blanks furnished judges of probate.—It shall be the duty of the state auditor, with the approval of the governor, to prepare and have printed suitable forms of licenses, and, as often as need be, to furnish to the several judges of probate blank licenses, signed by him, sufficient for the probable wants of

Issue and Expiration of Licenses; Refunding License Money.

their respective counties, taking their receipts for the same. Each such blank shall have a stub attached thereto on which shall be printed such matter as the auditor may prescribe, with appropriate blank spaces to be filled in by the judge of probate upon the issuance of any license. The auditor shall take and file in his office a proper receipt from the judge of probate for the license so furnished him.

2406. (4130) Stub to be filled up and signed before detaching license.—Upon the issuance of any license the judge of probate must, before detaching the license from the stub, fill up the blank spaces in the stub to correspond in all respects with the license as issued, and sign his name thereto.

2407. (4131) (637) License record to be kept; annual report and return of unused licenses and stubs; examination by auditor.—The judge of probate shall keep, in a book prepared for that purpose, an accurate account of all the licenses received by him from the state auditor and of the disposition made of them, and of all money received from licenses by him issued, and make report thereof to the state auditor within ten days after the first of January of each year, at which time he shall return to the state auditor all unused licenses and stubs for any year preceding, or account to the state auditor for all such unused licenses, and shall also return to the state auditor the stubs of all licenses issued for any year preceding; and the judge of probate shall, on demand of the state auditor, at any time, exhibit to him or to any agent appointed by the state auditor for that purpose, such license record and the originals of all licenses then remaining in his hands and all stubs of licenses issued.

2408. (4132) (633) License money to be promptly paid over, else no commissions allowed; quarterly reports; penalty.—During the month in which any license money is received by the judge of probate, he must remit to the state treasurer, at the expense of the state, all money received by him for licenses belonging to the state, and pay to the county treasurer all the money received by him for licenses belonging to the county; and upon all such money so remitted or paid during the month of collection, he is entitled to two and one-half per cent, which he may deduct therefrom; but he shall not be allowed any commission on any money not so remitted or paid; and on the last business day of each month the judge of probate shall forward to the state auditor a certified list of all licenses issued by him, stating therein for what business issued, the amount collected for each license, from whom collected, the date thereof; and if no licenses have been issued he shall report that fact. If any judge of probate fails to

As amend-
ed, Mar.
4, 1903, p.
223.

Issue and Expiration of Licenses; Refunding License Money.

comply with the provisions of this section within ten days after the date at which he is required to make a report of licenses issued and money received by him, the auditor shall forthwith report the facts to the governor, who shall cite such judge to show why he has not made returns of such certified lists of licenses, as required by law; and if such judge fails to show sufficient cause for such failure, the governor shall direct the attorney-general to institute impeachment proceedings against him before the supreme court.

2409. (4133) Auditor to furnish copies of license reports to solicitors; duty of solicitors and grand juries.—On the first days of February and August in each year the state auditor shall furnish to the solicitor of each circuit certified copies of all reports of licenses for each of the two quarters immediately preceding, filed in the state auditor's office from the counties composing the judicial circuit in which such solicitor is prosecuting officer; and such certified copies of license reports shall be by the solicitor laid before the grand jury in each of said counties at the term of the circuit court next ensuing; and it shall be the duty of the grand jury to compare carefully such copies of license reports with the license book required by law to be kept in the office of the judge of probate, and if any errors or omissions are found, to make report of the same to the presiding judge in their regular report. In counties where the circuit court has no grand jury, this report shall be made to the county solicitor, and shall be laid before the grand jury of the city or criminal court by such county solicitor, which grand jury shall perform the duties hereinabove required of grand juries in the circuit court.

2410. (4134) (3894) Judge of probate to furnish solicitor with list of licenses issued.—The judge of probate must, on the first day of each circuit or city court of the county, furnish to the acting solicitor, to be by him laid before the grand jury, a statement in writing showing the licenses granted and the taxes received thereon within the last twelve months preceding such court, to whom, and for what business such license was granted.

2411. (4135) When license money refunded.—When any person has taken out and paid for a license to carry on any business in this state, and has afterwards been prohibited by law from carrying on such business before the time named in the license has expired, such person shall be entitled to have refunded to him such proportionate part of the whole sum paid for such license as the unexpired time thereof bears to the whole time for which the license was originally granted.

2412. (4136) Application therefor; how money refunded.—On the application of any such person, his executor, administrator, or assigns, the judge of probate for the county in which such license was taken out shall proceed to ascertain the amount due such applicant under the provisions of the preceding section, and shall grant such certificates as will enable the state auditor and court of county commissioners to draw his warrant, or their order, respectively, and such warrant or order shall be paid out of any moneys in the state treasury or county treasury, respectively, not otherwise appropriated.

(Feb. 28, 1887, p. 92, § 2.) A license to engage in business is a mere permit, revocable at the pleasure of the legislature.—Powell v. State, 69 Ala. 10.

CROSS REFERENCES.

TAXATION IN MUNICIPALITIES (Political Code).....	1311-1337
TAXATION, LAWS REGULATING (Political Code)	2060-2412
TAXATION; OFFENSES CONCERNING (Criminal Code).....	7712-7720
TAX COLLECTOR (Political Code).....	2160-2168
TAX COMMISSION (Political Code)	2210-2267
TAXES (Criminal Code).....	7486, 7442, 7443
TAXES; LICENSE, PRIVILEGE, AND FRANCHISE (Political Code)	
	2361-2412
TAX SALES (Political Code)	2268-2331
TEACHERS (Political Code)	1719 et seq.
TEACHERS' INSTITUTES (Political Code)	1751-1754
TELEGRAPH AND TELEPHONES; MUNICIPAL REGULATION	
(Political Code)	1268
TELEGRAPH AND TELEPHONES; OFFENSES CONCERNING	
(Criminal Code)	7820
TELEGRAPH COMPANIES (Political Code).....	2135-2145
“ (Civil Code)	5815, 5816
TELEPHONES; OFFENSES CONCERNING (Criminal Code).....	7820
TEMPORARY USE OF ANOTHER'S PROPERTY (Criminal Code)...	7330
TENANT (Civil Code)	4731-4753
TENANT FOR LIFE (Civil Code).....	3420, 3405, 3426
TENANTS IN COMMON (Civil Code).....	5203-5231
“ (Criminal Code)	7821
TENDER (Civil Code).....	3752, 3753, 5749 et seq.
TENNESSEE (Political Code).....	83
TENPINS (Political Code)	2361
TERMS OF CHANCERY COURTS (Civil Code).....	3043 et seq.
TERMS OF CIRCUIT COURTS (Civil Code).....	3231 et seq.
TESTAMENTS (Wills) (Civil Code).....	6152 et seq.
TESTIMONY (Evidence) (Civil Code).....	3958-4076
TEXT-BOOK COMMISSION (Political Code)	1805-1850
THEATRE (Political Code).....	2361
THREATENING LETTERS (Criminal Code).....	6218
THREATS (Criminal Code).....	6302, 6218
TICK LAW (Political Code).....	765

TICKETS OR MILEAGE BOOKS (Civil Code).....	5593-5597
TIMBER (Civil Code)	4814-4821, 6035-6038
" (Criminal Code)	7331-7333, 7863-7869
TIME; COMPUTATION OF (Political Code).....	8, 11, 1759
TIME; LIMITATIONS OF ACTIONS (Civil Code)	4832-4863
TITLE, ABSTRACT OF (Civil Code)	3841
TOLL BRIDGES (Civil Code).....	3023-3040
" (Criminal Code)	7822
TOLL ROAD (Criminal Code).....	7730
TOLLS AND FREIGHTS (Criminal Code).....	7687 et seq.
TOLLS, BRIDGES, FERRIES, TURNPIKES (Criminal Code).....	7822-7825
TOMBSTONES (Criminal Code).....	6753
TOOLS (Political Code).....	2061
TORTS; MISCELLANEOUS ACTIONS (Civil Code)	2466-2471, 4491
TOWNS (Political Code).....	1046-1460
TOWNSHIP (Political Code)	1689-1696
TOWNSHIP TRUSTEES (Political Code).....	1697 et seq.
TRACT-BOOK (Political Code).....	573
TRADE AND COMMERCE (Political Code).....	2429-2439
TRADES AND PROFESSIONS; TAXED (Political Code)....	2361, 1338-1347
TRADING AT NIGHT (Criminal Code)	6878
TRAMPS; VAGRANTS (Criminal Code).....	7843-7850
TRANSACTIONS WITH DECEDENT (Civil Code).....	4007
TRANSCRIPTS (Civil Code)	2848-2851, 3374, 3983, 3988
TRANSPORTATION (Railroads) (Civil Code)	5473-5631
TREASON (Criminal Code).....	7826
TREASURER, STATE (Political Code)	616-633
TREASURER; COUNTY (Political Code).....	208-218
TREASURER OF MUNICIPALITIES (Political Code).....	1204-1207
TREES (Civil Code).....	4814-4817, 6035-6038
TREES AND PLANTS (Horticulture) (Political Code).....	811-826
TRESPASS (Civil Code)	4251 et seq.
" (Criminal Code)	7827-7837
TRIAL (Civil Code)	5296-5383
" (Criminal Code)	7838, 7851
TRIAL AND ITS INCIDENTS (Civil Code)	5296-5383
" (Criminal Code)	7838-7842
TRIAL; JOINT OR SEVERAL (Criminal Code).....	7842
TRIAL OF RIGHT OF PROPERTY; INTERPLEADER AT LAW; CLAIM SUITS (Civil Code).....	6039-6053
TRIAL WITHOUT JURY (Civil Code)	5359-5361
TROOPS (Criminal Code).....	7396 et seq.
TROOPS; STATE (Political Code).....	929-993
TROVER (Civil Code).....	5329, 4835
TRUSTEES, DISTRICT (Political Code)	1697-1701
TRUSTS AND TRUSTEES (Civil Code).....	6054-6109
TRUST COMPANIES (Civil Code).....	3528-3537
TRUSTS, MONOPOLIES, AND COMBINES (Criminal Code).....	7579-7582
TUNNELS IN TOWNS AND CITIES (Political Code).....	1296-1301
TURNIPS (Political Code)	2439
TURPENTINE FORESTS (Criminal Code).....	6907
TURPENTINE; MORTGAGES OF (Civil Code).....	4895
UNDERTAKING (Political Code)	538-545, 9
UNIONTOWN (Political Code).....	54

CHAPTER 46.

UNITED STATES, CESSION AND CONDEMNATION OF LANDS TO.
2413-2428.

SECTION.

- 2413. The United States may acquire lands.
- 2414. Condemnation provided for.
- 2415. Application; form and contents of.
- 2416. Order appointing day; notice, publication, and service.
- 2417. Guardian ad litem and counsel appointed for infant owners.
- 2418. Owner not appearing.
- 2419. Hearing; how conducted.
- 2420. Appeal provided for; how taken.

SECTION.

- 2421. Commissioners appointed to assess damages; notice to commissioners.
- 2422. Report of commissioners.
- 2423. Appeal from assessment of damages.
- 2424. Order of condemnation vests title.
- 2425. Damages, when paid; consequences of not paying.
- 2426. Commissioner appointed to execute conveyance.
- 2427. Governor to cede jurisdiction; restrictions.
- 2428. Cession of submarine sites.

2413. (626) (19) (19) (22) (24) The United States may acquire lands.—The United States may acquire and hold lands within the limits of this state, as sites for forts, magazines, arsenals, dockyards, and other needful buildings, or either of them, as contemplated and provided by the constitution of the United States, which purchase may be made by contract with the owners, or as hereinafter provided for. In like manner the United States may acquire and hold lands, rights of way, and material needed in maintaining, operating, or prosecuting works for the improvement of rivers and harbors within this state.

2414. (627) (20) (20) (23) (22) Condemnation provided for.—If the agent of the United States and the owner of such lands or right of way to be condemned cannot agree as to the terms of the sale and purchase thereof, the probate court of the county in which such lands or any part thereof may lie may, on the application of the agent of the United States, proceed to condemn such lands to such uses as may be provided for.

As amended, Dec. 5, 1900, p. 32, § 1.

2415. Application; form and contents of.—The application of the United States or its agent must be in writing, verified by the oath of an agent or attorney, and must state with certainty the uses or purposes for which the land is to be taken, or the interest or easement therein to be acquired, and must state the name and residence of the owner, if known, or if unknown, must show that reasonable diligence has been used to ascertain the same.

Ib., § 1.

Feb. 27,
1901, p.
134, § 1.

2416. Order appointing day; notice, publication, and service.—On the filing of the application the court must make and enter an order appointing the day for the hearing thereof; and if the owner of the land resides within the state, must issue notice to him of the application and of the day of the hearing thereof, which must be served by the sheriff or other legal officer at least ten days before the day appointed for the hearing; if the owner be unknown, or if he resides without the state, or has been absent from the state or beyond the jurisdiction of the court in which the application is made, for six months next before the time of the filing of the application in said court, notice may be given by advertisement in any newspaper published in the county, or if there be no newspaper published in the county, by posting notice at the courthouse and three other public places for at least three weeks before the day appointed for the hearing. If the owner be an infant, or of unsound mind, notice must be served on his guardian, if any he have, resident in the state, but if he resides in the state and has no such guardian, then the person who may have him in charge, or with whom he may reside. If the owner be dead and the lands are in the possession or under the control of his personal representative, notice must be served on such representative, and on the heirs at law of the decedent.

Dec. 5,
1900, p.
32, § 3.

2417. Guardian ad litem and counsel appointed for infant owners.—If the owner of the lands be an infant, or is of unsound mind, the court on the day appointed for the hearing must appoint a guardian ad litem to represent him, and the guardian so appointed must file a written acceptance of the appointment, must appear and protect the rights and interests of such infant, or person of unsound mind, and, if he deems it necessary, may employ counsel to assist him; the compensation of such guardian and of his counsel must be ascertained by the court and taxed as costs of the proceedings.

Ib., § 4.

2418. Owner not appearing.—If the owner does not appear on the hearing of the application, the court must hear the same, and if the application be granted, must appoint commissioners as herein provided for, and thereafter the same proceedings shall be had as if such owner had appeared.

Ib., § 5.

2419. Hearing; how conducted.—On the day appointed, or any other day to which the hearing may be continued, the court must hear the allegations of the application and any objections which may be filed to the granting thereof, and any legal evidence touching the same, and shall make an order granting or refusing the application.

2420. Appeal provided for; how taken.—The hearing herein provided for must in all respects be conducted and evidence taken as in civil cases at law, and either party may, by bill of exception, reserve any opinion or decision of the court as in cases in which bills of exception are allowed in civil cases at law, and either party is entitled to an appeal to the supreme court from the order of the court granting or refusing the application, within thirty days from the making thereof. Dec. 5,
1900, p
32, § 5.

2421. Commissioners appointed to assess damages; notice to commissioners.—If the application be granted, the judge of probate must appoint three citizens of the county in which the lands sought to be condemned are situated, who shall possess the qualifications of jurors, who shall be disinterested, and who shall be required to file a certificate along with their award, that neither of them had ever been consulted, advised with, or approached by any person in reference to the value of the lands or the proceedings to condemn the same, prior to the assessment of the damages, and they knew nothing of the same before their appointment; and the judge of probate is authorized to fill any vacancy occasioned by the death, resignation, failure to act, or any disqualification of any such commissioners from interest, prior knowledge of the subject-matter, or by being consulted, advised with, or approached in reference to the condemnation of such lands prior to appointment or to the assessment of damages. When the court shall have appointed the commissioners as herein provided, it shall at once issue a notice of such appointment to the sheriff, whose duty it shall be to serve such notice upon the person therein designated within five days of the receipt thereof, and the sheriff shall receive the same compensation for serving such notice as allowed for summoning jurors. It shall be the duty of the commissioners, or a majority of them, thus appointed by the judge of probate, to assess the damages and compensation to which the owner of the land is entitled, and they shall be sworn as jurors are sworn. The commissioners may view the lands to be subjected, and must receive all legal evidence that may be offered by either party touching the amount of the damages the owner of the lands will sustain and the amount of compensation he is entitled to receive; but the amount of compensation to which the owner is entitled must not be reduced or diminished because of any incidental benefits which may accrue to him or to his remaining lands in consequence of the uses to which the lands proposed to be taken, or in which an easement is proposed to be acquired, will be appropriated. But nothing in this section shall be construed to prevent any applicant for the condemnation of Ib., § 6.

land, or any landowner whose land is sought to be condemned, from being present in person or by attorney at any of the proceedings or trials provided for in this article.

Dec. 5,
1900, p.
32, § 7.

2422. Report of commissioners.—The commissioners must, within ten days from their appointment, report in writing to the court the amount of damages and compensation ascertained and assessed by them, and thereupon the court must order the same to be recorded, and must make an order of condemnation in pursuance thereof upon payment of the damages and compensation so assessed and reported, or the deposit of the same in court.

Ib., § 8.
(r. c. c.)

2423. Appeal from assessment of damages.—Either party may appeal from the assessment of damages and compensation by the commissioners to the city or circuit court of the county within thirty days after the making of the order of condemnation upon the report of the commissioners, by filing in the court rendering the judgment a written notice of appeal, a copy of which shall be served on the opposite party, and on such appeal the trial shall be de novo; but no appeal shall suspend the judgment if the applicant shall pay into court in money the amount of damages assessed and give bond in double the amount so assessed, with good and sufficient surety, to be approved by the judge of probate, to pay such damages as the owner may sustain.

Ib., § 9.
(r. c. c.)

2424. Order of condemnation vests title.—The order of condemnation, upon the payment of the sum ascertained and assessed by the verdict of the jury, or the deposit thereof in the court for the defendant, shall vest in the United States the title in fee simple to the lands to be acquired for the uses and purposes stated in the application. But if an appeal shall be taken by either party, then the United States, or its agents, upon the deposit in the court, for the party whose land is sought to be condemned, of the amount of damages and compensation so assessed, together with the cost of the proceeding, and giving a bond in double the amount of damages assessed, shall be entitled to enter upon the land so condemned, and survey, construct, and operate on the same, for the uses and purposes stated in the application, but such easement shall not vest absolutely in the United States until the final determination of the cause and payment or deposit in court of such damages and compensation as shall then be adjudged.

Ib., § 10.

2425. Damages; when paid; consequences of not paying.—The applicant may pay the damages and compensation assessed at any time within six months after the assessment thereof, or, in case an appeal is taken, within six months after

the appeal is determined, but if he fails to pay the same within such time such assessment shall cease to be binding on the owner of the lands, and the rights of the United States thereunder shall determine.

2426. Commissioner appointed to execute conveyance.—If the application is granted and the lands condemned, as hereinbefore provided, and no appeal is taken therefrom, or, if appeal is taken and the lands described are condemned on appeal, the probate court, in which the application is filed, shall at once appoint a commissioner to execute a conveyance of the title to the lands so condemned, and convey thereby all such title as the owners had therein to the United States, free from the claims of all persons whomsoever.

Dec. 5,
1900, p.
32, § 11.

2427. (628) (21) (21) (24) (23) Governor to cede jurisdiction; restrictions.—The governor, upon application made to him in writing on behalf of the United States for that purpose, accompanied by the proper evidence of the purchase, describing the lands sought to be ceded, is authorized on the part of the state to cede to the United States jurisdiction over such lands, to hold, to use, and occupy the same for the purposes of the cession, and none other. The jurisdiction thus ceded does not prevent the execution on such lands of any process, civil or criminal, under the authority of this state, nor prevent the laws of this state from operating over such lands; saving to the United States security to their property within the limits of the jurisdiction ceded, and exemption of the same and of such lands from taxation under the authority of this state during the jurisdiction ceded.

2428. (629) (22) (22) Cession of submarine sites.—Whenever the United States desire to acquire title to land belonging to this state, and covered by the navigable waters of the United States, and within the limits of this state, for the site of a lighthouse, beacon, or other aid to navigation, and application is made therefor by a duly authorized agent of the United States, describing the site required for one of the purposes aforesaid, then the governor of the state is authorized and empowered to convey the title to the United States, and to cede to the United States jurisdiction over the same; and upon like application the governor is authorized and empowered to convey to the United States the title to any land belonging to this state and covered by the navigable waters of the United States upon which any lighthouse or other aid to navigation has heretofore been erected, and to cede to the United States jurisdiction over the same; but no single tract shall contain more than ten acres, and this state shall retain jurisdiction concurrent with the United States, so far that all

process, civil and criminal, issuing under the authority of the state, may be executed by the proper officers thereof upon any person amenable to the same within the limits of land so ceded.

CROSS REFERENCES.

UNITED STATES (Political Code).....	2413-2428,	7
UNIVERSITY OF ALABAMA (Political Code).....	1869-1885	
UNLAWFUL ASSEMBLIES (Criminal Code).....	7721-7726	
UNLAWFUL DETAINEE (Civil Code).....	4260-4286	
UNSOUND MIND DEFINED (Political Code)	1	
" (Civil Code)	4345-4361	
UNWHOLESOME FOOD AND DRINK (Criminal Code).....	7074-7081	
USE AND OCCUPATION (Civil Code).....	4753, 4835	
USES (Civil Code).....	4287, 3408	
USES AND TRUSTS (Civil Code).....	3408-3415	
USURPATION (Civil Code).....	5453-5472	
USURY AND INTEREST (Civil Code).....	4619-4625, 3607, 3608	
UTILITY; BONDS FOR (Political Code).....	1421-1435	
VACANCY IN OFFICE (Political Code)	1467-1474	
VACATING OFFICE (Political Code)	1556-1568	
VAGABONDS (Criminal Code).....	7843-7850	
VAGRANTS, VAGABONDS, AND TRAMPS (Criminal Code).....	7843-7850	
VENDITIONNI EXPONAS (Civil Code).....	4097-4134, 4772, 4120, 2971, 4690	
VENDOR'S LIEN (Civil Code)	4900, 4699, 4163	
VENIRES; SPECIAL (Criminal Code).....	7257-7269, 7840	
VENUE (Civil Code)	6110-6123	
" (Criminal Code)	7851-7858, 7224-7233	
VERDICT (Criminal Code).....	7315-7317	
VESSELS (Criminal Code).....	7807 et seq.	
VETERINARIANS (Political Code).....	757- 770	
VETO BY GOVERNOR (Constitution 1901, § 125.)		
VETO BY MAYOR (Political Code).....	1186	
VETO RECONSTRUCTION ACTS (Political Code)	p. 41	
VIADUCTS; OF TOWNS AND CITIES (Political Code).....	1296-1301	
VITAL STATISTICS (Criminal Code).....	7050 et seq.	
VOID CONTRACTS (Civil Code).....	3334-3353	
VOTERS; WHO ARE (Political Code).....	290- 297	
VOTING (Elections) (Political Code).....	290- 511	
" (Criminal Code)	6773 et seq.	
VULGAR LANGUAGE (Criminal Code).....	6217	
WAGERING CONTRACTS (Civil Code).....	3338-3345	
WAGES (Civil Code).....	4165, 4201, 4790 et seq.	
WAIVER OF EXEMPTIONS (Civil Code).....	4231-4237, 4172	
WARDS AND GUARDIANS (Civil Code).....	4337-4481	
WAREHOUSEMEN AND COMMON CARRIERS (Civil Code).....	6123-6143	
WAREHOUSES AND WAREHOUSEMEN (Criminal Code).....	7859-7861	
WARRANTIES AND COVENANTS (Civil Code).....	3420-3421	
WARRANT OF ARREST (Criminal Code)	6278, 7587, 7862	
WARRANTS; COUNTY (Political Code).....	146 et seq.	
WARRANTS; STATE (Political Code).....	599 et seq.	
WARRANTY (Civil Code)	3420, 3421, 3833	

WATER COMPANIES (Political Code)..... 2361
 “ (Civil Code)3488 et seq., 3627-3637
WATERCOURSES (Civil Code).....6143-6150
 “ (Criminal Code)7863-7875
WATER CRAFT (Civil Code).....6151, 6038
WATERS, WATERCOURSES, RIVERS, STREAMS, BOOMS, ETC.
 (Criminal Code)7863-7875
WATERWORKS; MUNICIPAL (Political Code).....1260-1263
WEAPONS; CONCEALED (Criminal Code).....6421-6425

CHAPTER 47.

WEIGHTS AND MEASURES. 2429-2439.

SECTION.

- 2429. Must conform to standard established by congress.
- 2430. Contracts construed in reference to.
- 2431. Standard furnished counties by secretary of state.
- 2432. When furnished in case of destruction.
- 2433. New counties.
- 2434. Expense of obtaining, etc.; how defrayed.

SECTION.

- 2435. Notice of receipt of weights and measures.
- 2436. Seal of weights and measures.
- 2437. Penalty for selling by false weights and measures.
- 2438. Standard balances, by whom kept.
- 2439. Weights of certain commodities.

2429. (4230) (1217) (1460) (1198) (948) **Must conform to standard established by congress.**—There is but one standard of measure of length and surface, one of weight, and one of capacity, throughout this state, which must be in conformity with the standard of measure of length, surface, weight, and capacity established by congress.

Original act passed Feb. 4, 1807.—Toulmin's Digest, pp. 878 et seq. (Aikin's Digest, pp. 445-448; Clay's Digest, p. 596.)

2430. (4231) (1218) (1461) (1199) (949) **Contracts construed in reference to.**—All contracts, made within this state for any work to be done, or for anything to be sold and delivered, must be construed to have been made according to the standard of weight and measure thus ascertained, unless the parties stipulate to the contrary.

2431. (4232) (1219) (1462) (1200) (950) **Standard furnished counties by secretary of state.**—Any county which has not been furnished with weights and measures, consisting of one weight of fifty pounds, one of twenty-five pounds, one of fourteen pounds, one of seven pounds, two of four pounds, two of two pounds, and two of one pound, avoirdupois; one measure of one yard, and one of one foot, cloth measure; one meas-

ure of half a bushel, one of one peck, and one of one-half peck, dry measure; one measure of one gallon, one of a half gallon, one of a quart, one of one pint, one of one-half pint, and one of one gill, wine measure, in conformity with such standard, must be supplied therewith by the secretary of state as early as practicable.

2432. (4233) (1220) (1463) **When furnished in case of destruction.**—If the weights and measures of any county are destroyed, without the fault of any official who by law had charge of the same, the secretary of state shall, upon the requisition of the probate judge, furnish weights and measures to such county.

2433. (4234) (1221) (1464) **New counties.**—New counties must be furnished with weights and measures.

2434. (4235) (1222) (1465) (1201) (951) **Expense of obtaining, etc.; how defrayed.**—For the expense of obtaining such weights and measures, and furnishing the same to counties, the auditor must, on the account being certified by the secretary of state, draw his warrant on the state treasury.

2435. (4236) (1223) (1466) (1202) (952) **Notice of receipt of weights and measures.**—The judge of probate of each county, when furnished with such weights and measures, must, within three weeks thereafter, give notice thereof by advertisement at the courthouse door, and at five other public places in the county.

2436. (4237) (1224) (1467) (1203) (953) **Seal of weights and measures.**—Such judges must try all weights and measures presented to them by such standards, and if found to agree with the same, must seal them with a seal to be provided at the expense of the county.

2437. (4238) (1225) (1468) (1205) (955) **Penalty for selling by false weights and measures.**—Three months after the notice prescribed in this chapter has been given, every person selling any commodity, by weight or measure, which does not correspond with such standard, forfeits the sum of ten dollars to any person suing for the same.

2438. (4239) (1226) (1469) (1206) **Standard balances, by whom kept.**—The set of balances intended for the adjustment of weights and measures, furnished to this state by act of congress, must be kept by the secretary of state.

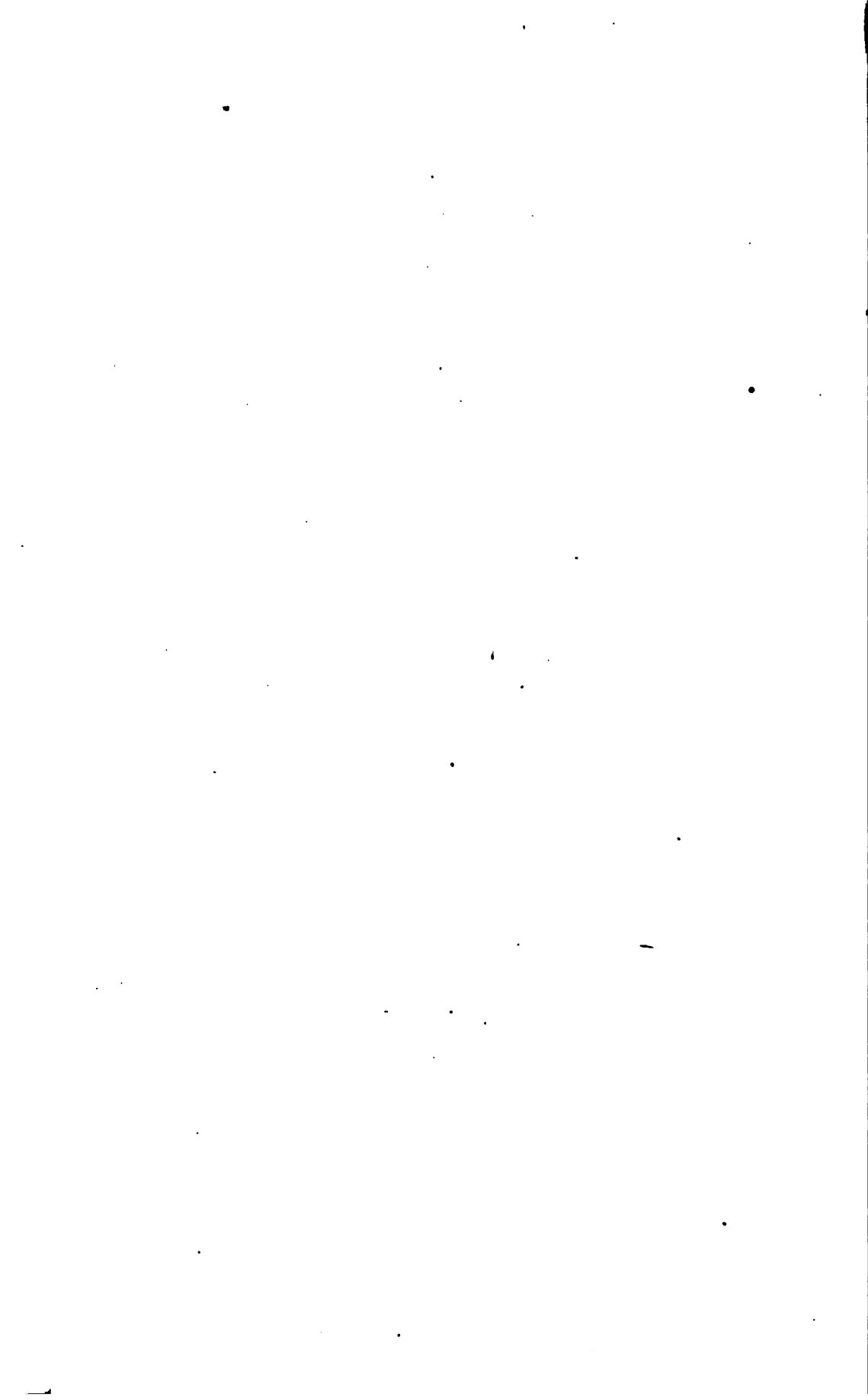
2439. (4240) (1227) **Weights of certain commodities.**—The legal weights per bushel of the following commodities shall be as follows: Cottonseed, thirty-two pounds; wheat, sixty pounds; shelled corn, fifty-six pounds; corn in the ear, seventy pounds; corn in the shuck, seventy-five pounds; peas, sixty

pounds; rye, fifty-six pounds; oats, thirty-two pounds; barley, forty-seven pounds; Irish potatoes, sixty pounds; sweet potatoes, fifty-five pounds; beans, sixty pounds; dried peaches, unpeeled, thirty-three pounds; dried peaches, peeled, thirty-eight pounds; dried apples, twenty-four pounds; turnips, fifty-five pounds; bolted meal, forty-six pounds; unbolted meal, forty-eight pounds.

Courts cannot take judicial notice of the rule for measuring corn in the shuck.—S. & N. A. B. Co. v. Wood, 74 Ala. 449.

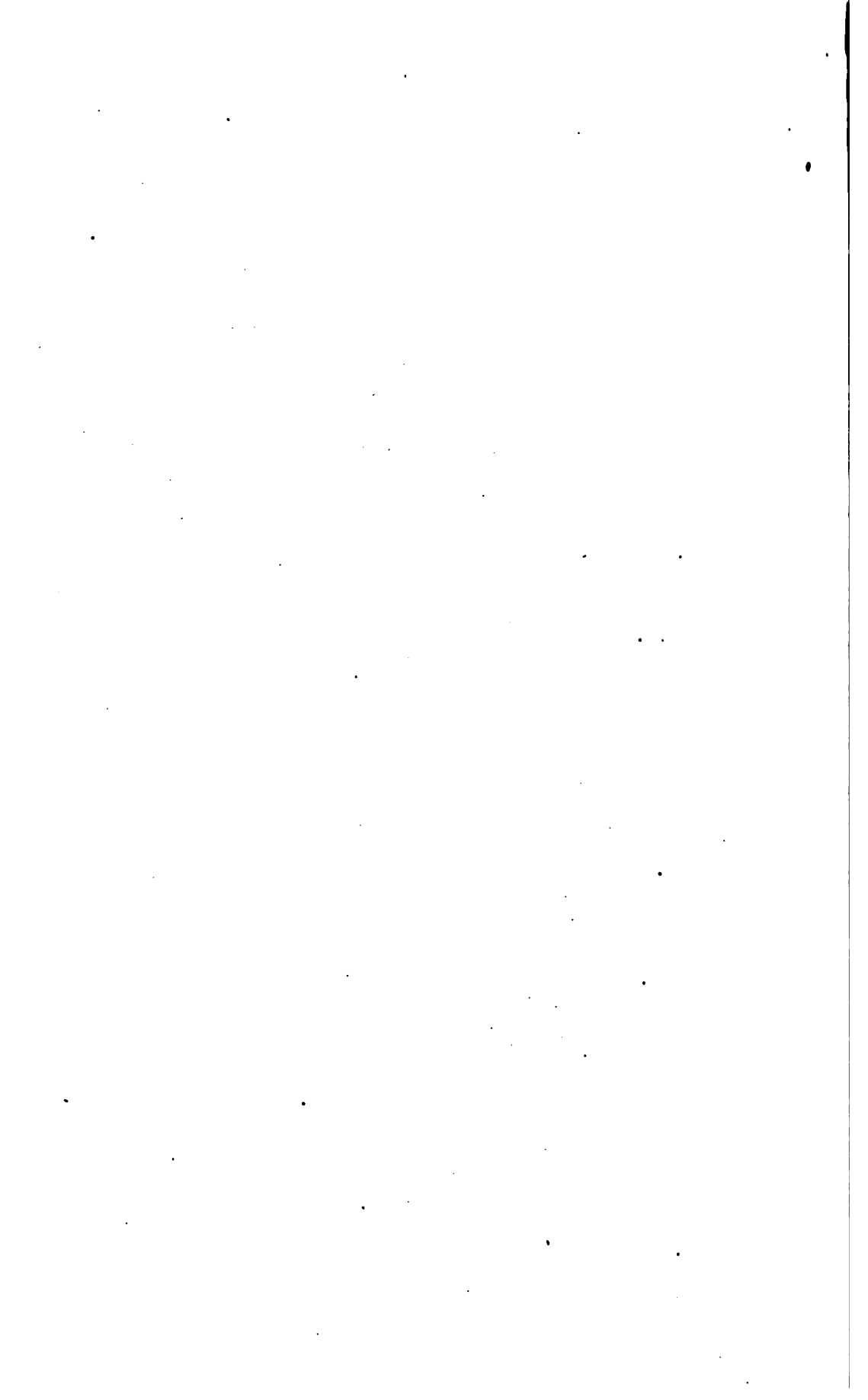
CROSS REFERENCES.

WEIGHTS AND MEASURES (Criminal Code).....	7376
WELL (Criminal Code).....	7575
WHARFINGERS (Civil Code).....	6131-6142
WHARVES AND WHARF-BOATS (Civil Code).....	4790, 4791
WHEAT (Political Code).....	2439
WHITECAPPING (Criminal Code)	7358, 6302
WIDOW (Civil Code)	3812-3837, 4196-4230, 6168-6171
WIFE (Civil Code).....	4486-4504
WILD HOGS (Criminal Code).....	6962
WILLS (Civil Code).....	6152-6209
WITNESSES (Civil Code).....	4034 et seq.
" (Criminal Code)	7877-7900
WITNESSES; COMPETENCY; EXAMINATION OF (Civil Code)..	4007-4018
WOMEN (Civil Code)	4486-4504, 2498, 2482, 6159
" (Criminal Code)	6767, 6857, 6217
WOODS; BURNING (Criminal Code).....	6906-6908
WOOD WORKMEN (Civil Code).....	4785-4789
WORDS AND PHRASES (Political Code).....	1-13
" (Civil Code)	4782, 4543
WORSHIP; DISTURBING (Criminal Code).....	6767-6769
WRITING (Civil Code).....	4231, 4232, 4288, 4289, 4160
WRIT OF ARREST (Criminal Code).....	6284 et seq.
WRIT OF ERROR (Criminal Code).....	6258 et seq.
WRITS (Civil Code).....	3778, 3784, 4512 et seq.
WRITS OF SEIZURE (Civil Code)	3194-3200
YEARS (Political Code).....	8, 614, 1759
YELLOW FEVER (Political Code)	716, 736 et seq.



INDEX TO VOLUME I.

(1006)



INDEX TO VOLUME I,

WITH REFERENCES TO VOLUMES II AND III, AND THE CONSTITUTION OF ALABAMA, 1901.

EXPLANATIONS.

References are to sections of the Code unless otherwise indicated. "p" indicates page of this volume. "(Const., sec.)" refers to sections of Constitution of Alabama, 1901, printed, indexed separately, and paralleled with the Constitution of 1875, as prefatory matter in Criminal Code, volume III.

Constitution of United States, not referred to here, but indexed separately, pp. 174 to 216 of this volume, as prefatory matter.

	SECTION.		SECTION.
ABANDONMENT (Civil Code)...	2475, 3793, 3800, 4190, 4192, 4494	ABUTTING Owners Tax for Betterment	1359-1420
" of Family (Criminal Code)....	7843	" Owners, Damages to, of Public Utility on Streets (Const., sec. 227).	
ABATEMENT (Civil Code).....	2495- 2501, 2960, 2964, 2965, 5330-5333	" Property, Taxation of (Const., sec. 223).	
" (Criminal Code)	7567-7574	ACCEPTANCE (Civil Code) ...	5081- 5118, 5166
ABDUCTION and Kidnapping (Criminal Code)	6210-6214	ACCESSORIES (Criminal Code) ..	6219, 6220
ABOLISHED Courts (Civil Code)...	2847	ACCOMMODATION (Civil Code)...	3189
ABOLITION of Courts by Legislature (Const., sec. 171).		ACCOMPLICES (Criminal Code)....	6219, 6220, 7897
ABORTION (Criminal Code)	6215	ACCORD and Satisfaction (Civil Code)	3973, 3974
ABSCONDING (Civil Code)	2925, 2938, 4190	ACCOUNTS	612, 546- 549
" Felons (Criminal Code)....	6939-6953	" Public Examiners of	546- 549
ABSENCE (Criminal Code)	6842	ACCOUNTANT, Municipal, Duties of	1229
" from State (Civil Code).....	4844	ACCUMULATION (Civil Code)	3410
" from State, not a Forfeiture of Residence (Const., sec. 31).		ACCUSATION, Right to Demand (Const., secs. 6-8).	
ABSENT Members of Legislature, Compelled to Attend (Const., sec. 52).		ACCUSED, Rights of Enumerated (Const., sec. 6).	
ABSORBED Municipalities, Laws Governing	1156-1163	ACKNOWLEDGMENT of Homestead (Const., sec. 205).	
ABSTRACTS of County Boundaries..	157	" (Civil Code).....	3358, 3362, 4160
" (Criminal Code)	6216	ACQUITTANCE (Civil Code).....	3211
ABSTRACT of Title (Civil Code)...	3841	ACT, Must Be Divided into Sections (Const., sec. 45).	
ABUSIVE, Insulting, Obscent Language (Criminal Code)	6217	" Style of (Const., sec. 45).	
" or Threatening Letters (Criminal Code)	6218		

SECTION.	SECTION.
ACT , Title of, Subject Expressed (Const., sec. 45).	ADVANCEMENTS (Civil Code) 3767-3777
ACTION on the Case (Civil Code)... 5329	ADVANCES by Landlord to Tenant (Civil Code)4734-4746
ACTIONS Shall Not Be Impaired or Destroyed (Const., sec. 95).	ADVERSE Possession (Civil Code).. 2830, 3846-3850
" Right to Defend or Prosecute (Const., secs. 6, 10).	" Possession under Tax Title.. 2307 et seq.
" Against Municipalities for Negligence 1274	ADVERTISEMENT (Civil Code).. 5181-5192
" Right of Municipal Preserved.. 1050	ADVICE and Consent of Senate (Const., secs. 265, 266, 276).
" Against Municipalities ...1273-1275	AFFIDAVITS (Civil Code) 4631
" and Parties (Civil Code)..2440-2506	AFFIRMATION of Office (Const., sec. 279).
" Limitations of (Civil Code).. 4830, 4831	" or Oath for Impeachment Proceedings (Const., sec. 173).
ACTS of Legislature, Must Be Signed by the Governor (Const., sec. 125).	" to Support Warrant (Const., sec. 6).
" Journals and Joint Resolutions (Civil Code)1663-1667	" AGAINST Peace and Dignity of the State of Alabama," Conclusion of Criminal Process (Const., sec. 170).
" of Congress568, 594	AFFRAYS (Criminal Code)6222, 6308
" (Civil Code) 3988	AGE of Children for School1755-1757
" and Journals Distributed..586 et seq	" of Senators and Representatives (Const., sec. 47).
" and Journals, Printing of, Pro- vided for1647-1677	" of Governor and Lieutenant Governor (Const., sec. 117).
" of Congress in Code (pp. 16-62).	AGISTERS' Lien (Civil Code)..4808, 4809
ADDRESS , Right of Citizen to (Const., sec. 25).	AGRICULTURAL (Civil Code) ... 4798-4805, 4742-4743
ADJOINING Land Owners (Civil Code)4243-4250	" and Mechanical College...1899-1911
ADJOURNMENT of Legislature (Const., sec. 58).	" and Mechanical College (Const., sec. 266).
ADMISSION of State into Union (pp. 35-39).	" Experiment Stations and Schools53- 60
ADJUTANT-GENERAL930- 931	" Laborer's Lien (Civil Code) 4794-4805
AD LITEM Guardians (Civil Code) 4482-4484	AGRICULTURE and Horticulture (Criminal Code)6223-6226
" Administrators (Civil Code).. 2818-2824	" Commissioner of, When and How Elected (Const., sec. 116).
ADMINISTRATION of Estates (Civil Code)2507-2829	AGRICULTURE AND INDUSTRIES 14- 79
ADOPTION of Constitution (Schedule 4).	Appropriations73- 75
AD QUOD DAMNUM Proceedings of Municipalities1439-1442	Annual 73
AD QUOD DAMNUM , Generally (Civil Code)3860-3909	Payment 74
ADRIPT (Civil Code)5844-5857	Reports 75
ADULTERATING Candies (Criminal Code) 7081	Commissioner and His Clerks14- 23
" Food (Criminal Code) 7078	Department 14
" Liquors (Criminal Code)..... 7080	Term of Office; Vacancy 15
ADULTERY (Civil Code)3793, 3799	Oath; Bond 16
" and Fornication (Criminal Code)6221, 7421	Salary 17

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Agriculture and Industries—Continued.	SECTION.
Location of Office	18
Clerks and Stenographer	19
Duties of	20
Compensation of Clerks	21
Duties of Commissioner	22
Geologist to Furnish Information	23
Funds and Expenses of the Department	51, 52
Institutes and Fairs	70-72
AID and Comfort to Enemy is Treason (Const., sec. 18).	
AIDES-DE-CAMP	930
ALABAMA. See State.	
Constitutional Provisions.	
" Girls' Industrial School, Location Shall Not Be Changed (Const., sec. 267).	
" Polytechnic Institute (Const., sec. 266).	
" Polytechnic Institute, Location Shall Not Be Changed (Const., sec. 267).	
" School for Deaf and Blind, Location Shall Not Be Changed (Const., sec. 267).	
ALABAMA ACADEMY FOR THE BLIND	1943-1948
Educational Institution for the Blind Established	1943
Control and Management	1944
Object of School; Application and Admission; Term of Pupilage	1945
Appropriations for Each Pupil..	1946
Officers and Teachers	1947
Laws Relating to the Alabama School for the Deaf Applicable	1948
ALABAMA INDUSTRIAL SCHOOL FOR GIRLS	1912-1932
Corporate Name; Rights and Powers of	1912
Trustees; Term of Office; Vacancy; How Filled	1913
Purposes for Which School Established	1914
Powers to Confer Honorary Degrees, Diplomas, Certificates, etc.	1915
President; election and Qualifications of	1916

Departments; Professors and Directors; How Chosen	1917
Secretary to Trustees	1918
Treasurer; Election, Duties, and Bond of	1919
Removal of Treasurer	1920
Books of Institution Kept; Must Be Open to Inspection.....	1921
Pupils Admitted; Qualifications of	1922
Property Exempt from Taxation.	1923
Scholarships	1924
Duties of Students	1925
Rights Confirmed, etc.	1926
Instruction Free	1927
Power to Condemn Property	1928
Appropriation for Girls' Industrial School	1929
Title to and Sale of Lands of Industrial School for Girls..	1930
Deposit of Proceeds of Sales, Leases, etc., of School Lands; Payment of Expenses of Selling, etc.	1931
Interest on Land Fund Paid Quarterly	1932
(Criminal Code)	6229
ALABAMA INSTITUTE FOR THE DEAF	1933-1942
Institution for the Deaf	1933
Incorporation of	1934
Eleven Trustees Appointed.....	1935
Quorum and Meetings of Board..	1936
Duties of Treasurer	1937
President of Board; Teachers; Compensation of Officers....	1938
Object of the School; Application and Admission; Term of Pupilage	1939
Selection and Powers of Executive Committee	1940
Appropriations for Each Pupil..	1941
Property Insured and Kept in Repair; Appropriation Therefor	1942
ALABAMA POLYTECHNIC INSTITUTE	1899-1911
Incorporation of	1899
General Powers, Duties, and Liabilities of	1900
Credit of State Pledged to Payment of Interest	1901
Powers of Board of Trustees....	1902
Classification of Trustees	1903

Alabama Polytechnic Institute—Continued.	SECTION.
Vacancy in Office of Trustee....	1904
Time and Place of Meetings....	1905
Quorum of Board of Trustees....	1906
Payment of Expenses	1907
When Gift or Grant not Affected; What Will not Operate a Forfeiture	1908
Report of Trustees	1909
Interest Paid by Treasurer	1910
Appropriation in Lieu of Fertilizer Tag Tax; How Paid.	1911
ALABAMA SCHOOL FOR NEGRO DEAF MUTES AND BLIND	
1949-1953	
Institutions Established.....	1949
Control and Management.....	1950
Object of School; Application and Admission; Term of Pupilage	1951
Appropriations for Each Pupil..	1952
Laws Relating to.....	1953
ALABAMA National Guard....	929- 998
“ Admitted Into Union.....	35- 39
“ Territory Established.....	31- 35
“ Reports Disposed of.....	580
ALIENATION (Civil Code).....	
3354-3357, 4161	
“ of Homestead (Const., sec. 205).	
ALIENS (Civil Code).....	2831
“ (Const., sec. 34).	
ALIMONY and Allowance (Civil Code)	3803-3806
ALMSHOUSES, Municipal.....	1277
AMENDING the Constitution (Const., secs. 284, 287).	
AMENDMENT of Bill on Passage (Const., sec. 61).	
“ of Bill on Its Passage; Character Shall Not Be Changed (Const., sec. 111).	
“ of Statutes (Const., sec. 45).	
AMENDMENTS of Bills; Legislature (Const., sec. 64).	
“ (Civil Code)	4139, 4140
“ Pleadings in Suits at Law. 5360-5368	
“ in Chancery Court.....	3124-3128
“ of Appeal (Civil Code).....	2885
“ to Constitution.....	436-438, 390
“ to Pleadings (Civil Code). 5369, 5370	
ANALYSIS	43- 48
“ Civil Code)	5426
“ Soils	76- 79
	SECTION.
ANDALUSIA Excepted From Rate of Taxation for Municipal Corporation (Const., sec. 216).	
ANIMALS (Civil Code).....	2832-2836
“ (Criminal Code)	7324, 7326, 7330, 7337, 6230-6242, 7874, 7148
“ and Fences (Civil Code)..	4240-4259
“ Running at Large (Civil Code)	3927-3957
“ Quarantine Regulations....	757- 770
ANNEXATION of Foreign Territory (Const., sec. 90).	
“ of Municipalities	1070-1074, 1133-1155
ANNEXATION OF WEST FLORIDA TO ALABAMA.....	80, 81
Commissioners for	90
Authority and Power of.....	81
ANNEXED Municipalities; Laws Governing	1070-1074, 1156-1163
ANSWER (Chancery) (Civil Code)..	3107 et seq.
ANSWERS in Garnishment (Civil Code)	4316
APOTHECARY.....	1618 et seq.
APPEALS and Errors (Civil Code).	2837-2895
“ (Criminal Code)....	6243-6266, 7119
“ as to Registration (sub. 6) (Const., sec. 168).	
“ From Justice of the Peace (Const., sec 168).	
“ Right of in Condemnation Proceedings (Const., sec. 235).	
“ from Assessments for Street Improvements	1839 et seq.
“ From Assessments of Franchise Taxes	2378
“ From Municipal Courts.....	1217 et seq. 1451
APPEARANCE; Rights of Parties (Const., sec. 6).	
“ In Court (Civil Code)...	2989 et seq.
APPELLATE Jurisdiction (Const., sec. 140).	
APPOINTMENT to Office. See “Governor” and “Office.”	
APPORTIONMENT of Legislators (Const., secs. 50, 202, 203).	
APPORTIONERS of Public Roads (Civil Code)	5780 et seq.

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
APPRAISEMENT2078 et seq.	ASSEMBLE , Right of People to (Const., sec. 25).
“ (Civil Code)2579 et seq.	ASSEMBLY (Legislature).....900 et seq.
APPRENTICES (Civil Code)...2896-2907	ASSESSORS2094 et seq.
“ (Criminal Code).....6849, 6852, 6853	ASSESSMENT of Taxes.....2102 et seq.
APPROPRIATION Bill; What It	“ of Taxes; How Regulated (Const., sec. 104).
Shall Embrace (Const., sec. 71).	“ Board, Duty of Commission... 2388
“ Army (Const., sec. 27).	“ Maps, Plats, or Abstracts of County Boundaries..... 157
“ Law for (Const., sec. 45).	ASSIGNMENT for Benefit of Credi- tors (Civil Code)6054 et seq.
APPROPRIATIONS , How Made	ASSISTANCE of Counsel Guarant- eed (Const., secs. 6, 10).
(Const., secs. 71, 72, 73).	ASSOCIATE Justices (Civil Code).. 5948 et seq.
“ to Charitable or Educational Institutions (Const., secs. 73, 260, 257).	ASSUMING Office Illegally (Criminal Code) 7446
APPROVAL of Bills by Governor	ASYLUM838 et seq.
(Const., secs. 125, 126).	ATTACHMENTS (Civil Code)..... 2924-2971, 4694
APPROVING Official Bonds..... 1485	ATTAINDER (Const., sec. 19).
ARBITRATION , Authorized (Const., sec. 84).	ATTAINTED of Treason (Const., sec. 19).
“ and Award (Civil Code)..2908-2923	ATTALLA Excepted From Rate of Taxation (Const., sec. 216).
ARCHIVES and History.....793- 810	ATTEMPTS (Criminal Code)..... 6311, 7702, 7699, 6297, 6866- 6868, 6215, 7315
ARRAIGNMENT (Criminal Code).. 7565, 7566	ATTENDANCE (Civil Code)...4020-4029
ARMS968, 946	“ of Legislator Compelled (Const., sec. 52).
“ (Criminal Code)....6421, 6424, 6893	ATTESTATION (Civil Code)..3355 et seq.
“ Right to Bear (Const., sec 26).	“ of Wills (Civil Code)..... 6172
ARMY , Quartering in War and Peace	ATTORNEYS Cannot Be Sureties... 1490
(Const., sec. 28).	ATTORNEY , Right to Appear in Civil Cases (Const., sec. 10).
“ Standing, Shall Not Be Kept (Const., sec. 27).	“ Right to Appear in Criminal Cases (Const., sec. 6).
ARREST , Electors When Privileged From (Const., sec. 192).	“ When to Act as Judge (Const., sec. 160).
“ Legislators Privileged From (Const., sec. 56).	ATTORNEY-GENERAL634- 640
“ Militia Privileged From (Const., (Const., sec. 275).	Bond 634
“ on Election Day..... 298	Duties 635
“ of Judgment (Civil Code).... 5366 et seq. 4845	Institutes and Prosecutes Civil Actions 636
ARRESTED , for What Cause, and How (Const., sec. 7).	Assistant 637
ARRESTS (Criminal Code)..... 6267-6294, 6351, 6352	Stenographer; Salary of..... 638
“ Refusing to Aid Officer (Crim- inal Code)7708-7711	Salary 639
ARSON and Kindred Offenses (Crim- inal Code)6295-6305	Fees and Commissions..... 640
ARTICLES of Confederation.....7- 15	ATTORNEY-GENERAL , Eligibility of (Const., sec. 132).
ARTILLERY (Const., sec. 274).	
ASSAULT (Criminal Code).6893, 6306-6310	
“ and Battery; Actions for; Ju- risdiction of Justices (Const., sec. 168).	
“ Grand Jury Dispensed With (Const., sec. 8).	

Attorney-General—Continued.	SECTION.
“ Fees and Compensation of (Const., sec. 118).	
“ How Impeached (Cont., sec. 173).	
“ Must Prepare Revenue Bill (Const., sec. 70).	
“ Oath of Office (Const., sec. 279).	
“ One of Executive Department (Const., sec. 112).	
“ Shall Make Reports to Governor (Const., sec. 137).	
“ Vacancy in Office; How Filled (Const., sec. 136).	
“ When and How Elected. See sec. 27, art. 6, Const. 1875, p. 90. (Const., secs. 114-116).	
ATTORNEYS at Law, Practice Regulated (Civil Code).....	2972-3011
“ at Law, Practice Regulated; Criminal Provisions as to (Criminal Code)	6312-6321
ATTORNEYMENT (Civil Code)...	3365, 5747
AUBURN	1899-1911
“ (Const., sec. 266).	
AUBURN'S Location Shall Not Be Changed (Const., sec. 267).	
AUCTIONEER	2084, 2361
“ (Civil Code)	4290
AUDITOR	597- 615
Bond of	597
Seal	598
Duties	599
Salary and Fees	600
Superintendence of Governor...	601
Clerks; Salary	602
Duties of Clerks.....	603
Official Acts	604
Duration of Appointment.....	605
Keeps Bonds	606
Proof of Claims.....	607
Payment From Contingent Fund.	608
Register of Bonds.....	609
No Warrant in Favor of Defaulter	610
Not to Receive Revenue Unless Authorized	611
Accounts Itemized and Verified.	612
Duplicate Warrant	613
Fiscal Year	614
Bonds, etc., Deposited With Payments to Treasurer.....	615

	SECTION.
AUDITOR, Duties as to Revenue Laws	2348-2360
“ Eligibility of (Const., sec. 132).	
“ Fees and Compensation of (Const., sec. 118).	
“ Impeachment of (Const., sec. 173).	
“ Oath of Office (Const., sec. 279).	
“ Must Prepare Revenue Bill (Const., sec. 70).	
“ One of Executive Department (Const., sec. 112).	
“ Shall Make Reports to the Governor (Const., sec. 137).	
“ When and How Elected (Const., secs. 114-116).	
AUTHORITY, Joint	3
AUTOMOBILES (Civil Code)...	3012-3015
“ Locomotives, and Motor Vehicles (Criminal Code)...	6322-6327
AUTOPSY (Civil Code).....	5426
AVOCATION, Municipal License Required	1338-1347
AVONDALE Excepted From Rate of Taxation (Const., sec. 216).	
AWARDS (Civil Code).....	2908-2923
BAGATELLE Table	2361
BAIL (Criminal Code).....	6328-6360
“ Shall Not Be Excessive (Const., sec. 16).	
“ When Allowed and Denied (Const., sec. 16).	
BAILIFFS (Civil Code)	3264, 3265
“ (Criminal Code)	6647
BALLOTS	372, 373, 379, 390- 395
“ Used at Election to Amend Constitution (Const., sec. 285).	
“ Vote by at Election by the People (Const., sec. 179).	
BALLOT BOXES	346
BANKS and Bankers (Civil Code).	3518 et seq.
“ (Criminal Code)	6361-6363
“ State Depositories	641- 655
“ and Banking (Const., secs. 247, 255).	
“ Bills and Notes Issued as Money (Const., sec. 249).	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
BANKS , Examination of by State (Const., sec. 254).	BENEVOLENT Societies (Civil Code)3613-3616
“ Holders of Notes and Depositors Preferred (Const., sec. 250).	BESSEMER Excepted From Rate of Taxation for Municipal Corporation (Const., sec. 216).
“ Incorporation of by Legislature (Const., sec. 247).	BETTERMENT Tax (Const., sec. 223).
“ Insolvency; Which Creditors Preferred (Const., sec. 250).	“ Tax, Municipal1359-1420*
“ Liability to Suits (Const., sec. 251).	BETTING (Criminal Code).....6987-6991
“ Must Be Established Upon Specie Basis (Const., sec. 248).	“ (Civil Code)3338-3344
“ Must Report Resources and Liabilities Twice a Year to State (Const., sec. 254).	BIENVILLE ; Founder of Monument 807
“ National Banks Excepted From Constitution (Const., sec. 255).	BIGAMY (Criminal Code).....6389, 6390
“ Rate of Interest as to (Const., sec. 252).	BILL , Altered or Amended on Pass- ing (Const., sec. 61).
“ State and County Shall Not Be Stockholders (Const., sec. 253).	“ of Attainder (Const., sec. 19).
“ Suspension of Specie Payment (Const., sec. 248).	“ in Chancery (Civil Code) ..3094-3096
BANK Notes; Holders of Preferred (Const., sec. 250).	“ of Discovery (Civil Code).3735-3744
BARGAIN (Civil Code) 3421	“ of Lading (Civil Code)...6131-6136
BARLEY 2439	“ of Particulars (Civil Code).... 5326
BASTARDS (Civil Code).....	“ of Review (Civil Code)...3177, 3178
5199, 5200, 3760, 3761, 4878, 4880	“ of Revivor (Civil Code)..... 3120
BASTARDY (Criminal Code)...6364-6388	BILLIARDS (Criminal Code) ..6988, 6992
BATHS , Public; Municipal Regula- tions 1287	BILLIARD Tables 2361
BATTERY (Civil Code)...3255, 4641, 4835	BILLS and Notes (Civil Code)..4958-5161
BEACON-LIGHT (Criminal Code).. 7870	“ of Exceptions (Civil Code).....
BEANS 2439	3016-3022, 2863-2865
BEAR Arms (Const., sec. 26).	“ of Exchange and Promissory Notes (Civil Code).....
BEASTALITY (Criminal Code)..... 6746	5145-5157, 5166-5174
BEATS ; How Changed (Const., sec. 104).	“ Amended; How Adopted (Const., sec. 64).
“ or Precincts339, 346	“ and Notes Issued as Money (Const., sec. 249).
BEHAVIOR ; Good; Limit of Term of Office (Const., sec. 29).	“ Character as to Local or Gen- eral Cannot Be Changed by Amendment on Passage (Const., sec. 111).
BELL (Civil Code) 5473	“ How Signed by Presiding Offi- cer of Each House (Const., sec. 66).
BENEFICIARY (Civil Code).....	“ Must Be Approved or Vetoed by the Governor (Const., sec. 125).
2489, 2490, 2495	“ Must Be Publicly Read Before Signing (Const., sec. 66).
BENEFIT and Mutual Aid Associa- tions (Civil Code) 3564-3588	“ Must Be Read on Three Differ- ent Days in Each House (Const., sec. 63).
“ of Clergy (Criminal Code).... 7621	“ Must Be Referred to Commit- tees and Returned (Const., sec. 62).
	“ of Credit (Const., sec 247).

SECTION.	SECTION.
BILLS of Credit; How Issued (Const., sec. 247).	BOATS 2361
“ on Final Passage Must Be Read at Length and Vote Taken by Yeas and Nays (Const., sec. 63).	“ (Civil Code) 4790, 4791
“ Style of (Const., sec. 45).	“ (Criminal Code) 6392, 7499, 7501, 7502, 6300
“ Title, Subject (Const., sec. 45).	BONDED Indebtedness 1436-1438
“ to Raise Revenue Must Originate in House (Const., sec 70).	“ Indebtedness of Corporations; How Increased (Const., sec. 234).
“ Title, Subject Expressed (Const., sec. 45).	“ Indebtedness of State; Interest on 626 et seq.
“ of Legislature; Printed..... 1672	“ Indebtedness of State; Adjust- ment of (Const., secs. 283, 213).
BIRMINGHAM , as to Rate of Tax for Municipal Corporation (Const., sec. 216).	BONDS , Additional Required... 1525-1539
BIRTHS 699 et seq.	“ and Sureties 1507-1539
“ (Criminal Code) 7050, 7053	“ for Public Utilities 1421-1435
“ Report of 711	“ for Title to Convey Land (Civil Code) 3441-3444
BLACKLISTING (Criminal Code)... 6394-6399	“ Municipal; for Public Improve- ments 1408
BLACKMAIL (Criminal Code)..... 6391	“ New; Required 1525-1539
BLACKSMITHS and Wood Work- men (Civil Code) 4785-4789	“ of County 158- 174
BLANKS 213, 2359, 578, 1647	“ Official; Condition of.... 1501-1506
“ (Civil Code) 3278	“ Official; Lien 1491
“ for Justices (Civil Code). 4728, 4729	“ Official; Made by Guaranty Companies 1507-1524
BLIND 1943-1948	“ of Public Officers..... 1483-1506
“ School for (Const., sec. 267).	“ of State..... 626 et seq.
BLOOD Not Corrupted by Convic- tion (Const., sec. 19).	“ Waterworks, Gas, Electric Plants 1459
“ (Civil Code) 3758, 2523	“ Authorized by Vote of County or Municipality (Const., sec. 222).
BOARDING House Lien (Civil Code) 4827, 4828	“ and Recognizances Not Nul- lified by Constitution, sched- ule 2).
BOARD of Dental Examiners... 219- 221	“ County; Issue of (Const., sec. 222).
“ of Education 1713 et seq.	“ County; Refunding (Const., secs. 224, 213).
“ of Medical Examiners... 1626, 1632	“ May Be Issued for Acquiring Territory (Const., sec. 90).
“ of Pardon Created (Const., sec. 124).	“ Municipal; How Issued (Const., sec. 222).
“ of Pharmacy 1618, 1621	“ Municipal; Refunding (Const., sec. 225).
“ of Public Works..... 1233-1250	“ of State; Funding; When Pay- able 82
“ or Lodging (Criminal Code)... 6934	BOOKS and Papers. . 1549-1555, 591 et seq.
“ of Trustees for Auburn; Elec- tion and Term of Office (Const., sec. 266).	“ and Stationery.. 213, 578, 1647, 2359
“ of Trustees of University; How Elected; Term of Office (Const., sec. 264).	“ (Civil Code) 3278
BOARDS of Education; Municipal.. 1355	“ and Stationery (Civil Code)... 3278
“ of Health 698 et seq.	“ for Public Schools Selected... 1805-1850
“ of Public Schools... 1680, 1712-1716	
BOATS (Civil Code) 4810-4813	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.
BOOMS (Criminal Code) ..7866, 7867, 7873	
“ (Civil Code)	4818-4821
BOOTHES for Elections	388
BORROW Money of State Denied (Const., sec. 93).	
BOTTLES (Criminal Code).....	7318-7321
BOUNDARIES , Monuments, etc. (Criminal Code)	6393
“ of Municipalities	1070-1155
“ of the State	83- 85
“ of Counties; How Changed (Const., sec. 39).	
“ of Precincts, Wards, and Beats; How Changed (Const., sec. 104).	
“ of State (Const., sec. 37).	
BOWIE-KNIFE	2361
“ (Criminal Code)	6421, 6425, 7093, 6896
BOWLING-ALLEY	2361
BOYCOTTING and Blacklisting (Criminal Code)	6394-6399
BRANDS and Marks (Civil Code)..	4873-4876
BREACH of Peace (Const., secs. 56, 192, 275).	
BREAD (Criminal Code).....	7075-7077
BREWERS	2361
BREWTON Excepted From Rate of Taxation (Const., sec. 216).	
BRIBERY (Criminal Code)	6400-6411
“ as to Poll Tax and Election Law (Const., sec. 195).	
“ of Judicial or Legislative Offi- cer (Const., sec. 80).	
“ of Legislators; Defined and Punished (Const., sec. 79).	
“ Person Convicted of, Not Elig- ible to Office (Const., secs. 60, 182, 184).	
BRIDGES and Streets (Criminal Code)	7727-7745
“ Causeways, and Ferries (Civil Code)	3023-3041
“ Railroad Tracks in Towns and Cities	1296-1301
“ (Criminal Code) ...	7730, 7731, 7872
BRINGING Stolen Property Into State (Criminal Code)....	7328, 7231
BROKERS	2361
BRYOE HOSPITAL	838- 878
BUCKET SHOPS (Criminal Code)..	6473-6478

	SECTION.
BUILDING (Civil Code).....	4747-4753
“ and Loan Companies (Criminal Code)	6412
“ and Loan Companies (Civil Code)	3597-3612
BUILDINGS , Fences, etc.; Injuring or Defacing (Criminal Code..	6418, 6414
BULKHEADS (Civil Code) ...	4818-4821
BULL (Civil Code)	4810
BURGLARY (Criminal Code)...	6415-6418
BURIAL Associations	538- 545
“ Grounds in Towns and Cities..	1309, 1310
“ Places, Graveyards, Cemeter- ies; Location of.....	86- 97
“ Place (Civil Code)	4163
“ Societies (Civil Code)....	3613-3620
BURNING Woods and Forests (Crim- inal Code)	6906-6908
BUSHEL	2429-2439
BUSINESSES ; Municipal License Required	1338-1347
BUTCHERS (Criminal Code).....	6419
BUTTER	22
BUYING or Selling Office (Criminal Code)	7445
CALCIUM Cyanamid Plants	2070
“ (Civil Code)	3627-3637
CAMPAIGNS ; Contributions to (Criminal Code)	6630
CANALS (Civil Code)	3903
“ (Criminal Code)	7872
“ and Railroads (Const., secs. 242, 246).	
“ Public Highways, and Common Carriers (Const., sec. 242).	
“ Right to Connect and Cross Other Lines (Const., sec. 242).	
“ Right to Construct and Operate Lines (Const., sec. 242).	
CANDIDATES for Office.....	372, 373
CANDIES (Criminal Code)	7081
CANOE (Civil Code).....	6151
CAPITAL Cases; Special Venires for (Criminal Code)	7257-7269
“ Offenses; Bail as to (Const., sec. 16).	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.		SECTION.
CAPITOL	558- 565	CENSUS for Schools; When and How Taken (Const., sec. 268).	
" of State; How Changed (Const., sec. 78).		CERTIFICATE of Election.....	435
" Governor May Convene Legislature at Other Place Than (Const., sec. 48).		" of Witness (Civil Code).....	3674, 3677, 3678
CARDS	2361	CERTIORARI (Civil Code)	4868-4872
" Playing (Criminal Code).....	6983	" Granted by Justices of Supreme Court (Const., sec. 140).	
CARNAL Knowledge (Criminal Code)	7696-7702	CESSIONS of Lands to United States	2413-2428
CARRIERS (Railroads) (Civil Code)	5473-5631	" by State to United States..	898, 899
" Common; Franchise Tax.2364 et seq.		CHAIN-BEARERS (Civil Code)....	6021, 6025
CARRYING Concealed Weapons (Criminal Code)	6421-6425	CHALLENGE of Jurors (Civil Code)	4634
" on Business Without License (Criminal Code)	7712-7715	" of Jurors (Criminal Code).7275-7278	
" on Business; License Required. 2361		" of Voters	370, 407- 411
CARS Standing Across Streets.....	1452	" of Voters (Const., sec. 185).	
CASE (Civil Code).....	5329	" to Fight Duel (Criminal Code).	6771, 6772
CASTING Away Boat or Vessel (Criminal Code)	6300	" to the Array (Criminal Code)	7256, 7258
CASUAL Ejector (Civil Code).....	3839	CHANCELLORS	1535-1548
CATTLE ; Quarantine Regulations..	757- 770	" (Civil Code)	3055-3069
" (Civil Code)..2832-2836, 3927-3954, 4243-4253, 4810-4813, 4873-4875		" Eligibility and Qualifications of (Const., sec. 154).	
" Ticks	765	" Eligibility, Election, and Appointment of (Const., sec. 145).	
CAUSES of Action; Civil; May Defend or Prosecute (Const., sec. 8).		" Fees and Compensation of (Const., sec. 150).	
" (Civil Code)	2440-2506	" Holding Court for Each Other (Const., sec. 146).	
" of Action Remain Unaffected by the Constitution, schedule 2.		" How Impeached (Const., sec. 174).	
CAUSEWAYS (Civil Code).....	3023-3040	" Solicitor Acting as (Const., sec. 160).	
CAVALRY (Const., sec. 274).		" Terms of Office (Const., sec. 155).	
CELLARS ; Openings on Streets and Sidewalks	1266	CHANCERY Courts (Civil Code)...	3042-3228
CEMENT Laboratories	1893	" Court Enforces Municipal Ordinances	1300
CEMETERIES (Civil Code).....	4163	" Court May Sell Lands for Municipal Taxes	1323
" in Towns and Cities....	1309, 1310	" Court, Jurisdiction; Chancery Divisions (Const., sec. 145).	
" Location of	86- 97	" Courts; Jurisdiction, Time, and Place of Holding (Const., sec. 146).	
" Municipal Regulations	1284, 1309, 1310	" Courts; Registers; Appointment to and Terms of Office (Const., sec. 163).	
" Not Taxed (Const., sec. 91).			
CENSUS for Schools	1717, 1718		
" of the United States (Civil Code)	3080		
" of Municipalities	1060 et seq.		
" as Basis for Apportionment of Senators and Representatives (Const., secs. 198, 200).			

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.
CHANCERY Divisions; What Shall Constitute (Const., sec. 147).	
CHANGE Bills (Civil Code).....	5150, 5152, 4625
“ (Criminal Code)	6426, 6427
“ of Name (Civil Code).....	5201, 5202
“ of Venue (Civil Code).....	6116-6122, 6204-6206
“ of Venue (Criminal Code).7851-7858	
“ of Venue (Const., sec. 6).	
“ of Venue, Civil Suits (Const., sec. 75).	
CHARGE of Court (Civil Code).5362-5365	
“ (Criminal Code).....	7286
CHARGES ; Special to Grand Jury (Const., sec. 81).	
“ (Criminal Code)	7286
“ to Grand Jury as to Free Passes (Const., sec. 244).	
CHARITABLE Institutions; Appro- priations to (Const., sec. 73).	
“ Not Taxed (Const., sec. 91).	
CHARTERS of Corporations Altered, Amended, or Revoked (Const., sec. 238).	
“ of Corporations Altered or Amended by General Law (Const., sec. 229).	
“ of Corporations; Forfeiture of (Const., secs. 230, 231):	
“ of Corporations; Forfeiture for Non-User (Const., sec. 230).	
CHATTAHOOCHEE River; Boundary of Alabama	84, 85
CHATTEL Mortgages (Civil Code)..	
“ Real (Civil Code)	3376, 3377, 3789-3791
“ Real (Civil Code)	3404
CHEATS and Frauds (Criminal Code)	6920-6938
CHECKS , Notes, and Bills (Civil Code)	4958-5161
CHEMIST ; State	46
CHIEF Justice (Civil Code).....	5948
“ Justice (Const., secs. 151, 152).	
CHILD Labor (Criminal Code)..	6428-6449
CHILDREN (Civil Code).2896-2907,	
5199-5202, 3767-3777, 4505-4511	
“ Eligible to Public Schools.1755-1757	
“ Juvenile Delinquents (Criminal Code)	6450-6465
“ Legitimizing; Removing Disa- bilities (Const., sec. 104).	

	SECTION.
CHILDREN , School Age of, Be- tween Seven and Twenty-one Years (Const., sec. 256).	
CHOKING Horse (Criminal Code)...	6239
CHOSES in Action (Civil Code).....	4958-5161, 3189-3192, 5166, 5171, 5173
CHURCHES (Civil Code).....	3613-3619, 3622, 3625, 3626, 4163
“ No Preference to Denomina- tion, Sect, or Form of Wor- ship (Const., sec. 3).	
“ Not Established by Law (Const., sec. 3).	
CIGARETTES	2361
“ (Criminal Code)	6466
CIRCUIT	2
“ Courts (Civil Code).....	3229-3295
“ Courts (Criminal Code)	6694
“ Court Clerk.....	332, 335, 336
“ Court Clerk (Civil Code).3269-3278	
“ Judge (Civil Code)	3255-3268
Constitutional Provisions.	
CIRCUIT Court (Const., secs. 142, 144).	
“ Court; Clerk of; Election of (Const., sec. 165).	
“ Court; Clerk of; Impeachment of (Const., sec. 175).	
“ Court; if Judge Incompetent, How Selected (Const., sec. 160).	
“ Courts; Jurisdiction of (Const., sec. 143).	
“ Court; Terms of (Const., sec. 144).	
“ Judge; Compensation of (Const., sec. 150).	
“ “ Conservator of the Peace (Const., sec. 157).	
“ “ Election of (Const., sec 152).	
“ “ Eligibility of (Const., sec. 142).	
“ “ Impeachment of; Grounds for (Const., sec. 174).	
“ “ Injunction; Authority to Grant (Const., sec. 144).	
“ “ Prohibited from Prac- ticing Law (Const., sec. 162).	

SECTION.	SECTION.
CIRCUIT Judge, Qualifications of (Const., sec. 154).	CITIZENS , Residence; Term of Which Will Entitle Them to Vote (Const., sec. 178).
“ “ Term of Office (Const., sec. 155).	“ Right to Assemble (Const., sec. 25).
“ “ Vacancy in Office; How Filled (Const., sec. 158).	CITIZENSHIP Restored by Pardon.. 294
CIRCUS 2361	CITY Court Clerk 335, 336
CISTERNS ; Municipal Regulations. 1280	“ Court Clerk (Civil Code)..... 2987
CITIES , Laws Governing1046-1460	“ Courts (Civil Code)..... 3296-3300
“ Classified 1052	“ Courts (Criminal Code)..... 6695
“ (Const., secs. 220, 241).	“ Health Officer1208-1212
“ Bonds of; How Issued (Const., sec. 222).	“ Liability for Negligent Acts. 1273
“ Bonds of; Refunding (Const., sec. 225).	“ Limits1070-1074
“ Debts; Limited (Const., sec. 225).	“ Seal (sub. 6) 1192
“ Grants of Use of Franchise for Longer Than Thirty Years Prohibited (Const., sec. 228).	“ Court Judge Cannot Practice Law (Const., sec. 162).
“ How Authorized to Issue Bonds (Const., sec. 104).	““ Court Judge; How Elected (Const., sec. 153).
“ How Incorporated (Const.; sec. 104).	CIVIL Law (Civil Code)..... 3757
“ Privilege Taxes (Const., sec. 221).	“ Office (Const., secs. 130, 280).
“ Property of Not Taxed (Const., sec. 91).	“ Causes; Parties May Defend or Prosecute by Themselves or Counsel (Const., sec. 10).
“ Shall Not Be Stockholder in or Lend Credit to Private Cor- poration (Const., sec. 94).	“ Power; Military in Subordina- tion to (Const., sec. 27).
“ Shall Not Lend Money or Credit to Private Enter- prises (Const., sec. 94).	CLAIM Suits (Civil Code) 6039-6053
“ Shall Not Pass Law Inconsist- ent With General Laws (Const., sec. 89).	CLAIMS Against County.....146- 154
“ Streets and Sidewalks; Use of (Const., sec. 220).	“ for Personal Injury Against Municipality 1275
CITIZEN (Civil Code) 2414	“ of Exemptions (Civil Code)... 4168-4193
“ Soldierly929- 998	“ Remain Unaffected by the Con- stitution, schedule 2.
CITIZENS (Const., sec. 177).	CLERGYMAN (Civil Code) ... 4881-4883
“ Protection of (Const., sec. 35).	CLERKS of Circuit Court (Civil Code)3269 et seq.
“ Shall Not Be Exiled (Const., sec. 30).	“ of Court (Criminal Code)..... 7797, 7798, 7801
“ Rights of (Const., secs. 34, 35, 36).	“ of Municipalities.....1199-1203
“ Who Are (Art. 1, sec. 2, p. 3, Const. 1875) (Const., sec. 34).	“ of Supreme Court (Civil Code) 5983-5994
“ Right to Vote (Const., sec. 177).	CLERK of Circuit Court; Election of (Const., sec. 165).
	“ of Circuit Court; Impeachment of (Const., sec. 175).
	“ of Circuit Court; May Fill Va- cancy in Office of Register in Chancery (Const., sec. 165).
	“ of Circuit Court; Vacancies in Office; How Filled (Const., sec 165).
	“ of Criminal Court; Impeach- ment of (Const., sec. 175).

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
CLERK of Inferior Court; How Selected (Const., sec. 164).	COMMERCE and Trade (Civil Code)
“ of Supreme Court; Appointment to and Term of Office (Const., sec. 164).	5144-5157, 3301-3305, 4287-4295, 4619-4625, 5265-5289, 5150-5152, 4543-4596, 5162-5174, 5473-5513, 6671-6673, 3730-3734, 6131-6142, 2429-2439
CLERKS of Court, Registers in Chancery; Removal from Office (Const., sec. 166).	COMMERCIAL Agency 2361
CLOCKS 2361	“ Fertilizers 24- 48
CLOUD on Title (Civil Code)... 5443-5448	“ Law (Civil Code)... 4958-5161, 5143
COAL 1009	COMMISSIONER of Agriculture.. 14- 23
COAL OIL 2361	“ of Deeds 98
COAL Mines; Inspection of..... 999-1038	“ of Insurance (Civil Code) 4545-4588
COOK Fighting (Criminal Code).... 6467, 6468	“ of Agriculture; Eligibility of (Const., sec. 132).
CODE 1-10, 1884, 2060	“ When and How Elected (Const., secs. 114, 116).
“ Act Adopting (page 1).	“ of Agriculture; Compensation of (Const., sec. 118).
“ Disposed of 589 et seq.	COMMISSIONERS' Courts (Civil Code) 3306-3323
“ Municipal 1046-1460	“ Court; Assessment of Taxes... 2146-2159
“ Provision as to Adopting (Const., sec. 45).	“ of County Custodians of Property 130
“ Repealing Sections 10, 13	COMMISSION to Officers..... 1469-1472
CODIFYING ; Laws Required (Const., sec. 85).	COMMISSIONS 1470, 1471, 1474
COINS ; Redemption for Bonds and Bills (Const., sec. 249).	“ and Grants Shall Be Issued Under the Great Seal of the State (Const., sec. 135).
COLORED Race; Separate Schools Maintained for (Const., secs. 256, 270).	COMMITTEES ; Bills Must Be Referred to (Const., sec. 62).
“ Race Cannot Intermarry With White (Const., sec. 102).	“ Reports; How Adopted (Const., sec. 64).
COLOE ; Qualification for Suffrage (Art. 1, sec. 38, Const. 1875).	“ of Legislature Sitting During Recess 916
“ (Civil Code) 5487, 5488	COMMON Carriers (Civil Code) 5473-5631
“ of Title (Civil Code).... 2830, 3850	“ Carriers as Warehousemen (Civil Code) 6123-6142
COLLATERAL KIN (Civil Code)... 3756	“ Carriers; Franchise Tax on... 2364-2390
“ Securities; Pledges (Civil Code) 3301-3305	“ Law of England Adopted (Sec. 12).
COLLECTOR 2160-2209	“ Good; Right to Assemble for (Const., sec. 25).
COLLEGE of Medicine 1889	COMMUNITIES Incorporated. 1053 et seq.
COLLEGES . See Schools.	COMMUTATIONS or Pardons.. 1593-1597
COLORED Race; Separate Schools for 1757	“ Granted by Governor (Const., sec. 124).
“ School for Deaf Mutes and Blind 1949-1953	“ (Criminal Code)..... 7510-7516, 7653, 7654
COMBINATIONS of Capital Prohibited (Const., sec. 103).	COMPANY 2060
COMBINES , Trusts, and Monopolies (Criminal Code) 7579-7582	
COMFORT and Aid to Enemies, Treason (Const., sec. 18).	
COMMANDER in Chief of Military Forces (Const., sec. 131).	

	SECTION.		SECTION.
COMPENSATION. See "Salaries,"		CONFESSION in Open Court (Const.,	
" Fees."		sec. 18).	
" for Land Taken for Public		" of Judgment (Criminal Code)	
Use (Const., sec. 23).		6251, 6240, 7631-7635	
" Fees and Salaries of Solicitors		" (Civil Code)	4295, 5752, 5395
(Const., sec. 167).		CONGRESS . . . 99, 100, 331, 338, 439, 442	
" of Civil Officer Shall Not Be		" Acts of, in Code (pp. 16-62).	
Increased or Diminished Dur-		CONGRESSIONAL Acts Disposed of	594
ing the Term for Which He		" Districts	99, 100
is Elected (Const., sec. 281).		CONGRESSMEN , Number of	100
" of County and Municipal		" When Elected	338
Agents, Servants, or Offi-		CONSENT of Both Houses to Ad-	
cers Shall Not Be Increased		journalment (Const., sec. 58).	
(Const., sec. 68).		CONSERVATORS of Peace, Judges	
" of Members of Legislature		(Const., sec. 157).	
(Const., sec. 49).		CONSOLIDATED Municipalities;	
COMPLAINT (Criminal Code)	7584	Law Governing	1126-1132
" (Civil Code)	5327-5370	CONSOLIDATION of Corporations	
COMPOSITION (Civil Code)	3974	(Civil Code)	3502-3508
COMPOUNDERS and Rectifiers	2361	" of Courts (Const., sec. 148).	
COMPOUNDING Felony (Criminal		" of Telephone and Telegraph	
Code)	6469	Companies Denied (Const.,	
COMPROMISE	154	sec. 239).	
" (Civil Code) . . 2602-2604, 4391-4394		CONSTABLES (Civil Code)	3324-3333
COMPULSORY Process for Witnesses		" (Const., sec. 168).	
(Const., sec. 6).		CONSTITUTIONAL Provisions Uni-	
CONCERT	2361	ted States, see Index, pp. 174-	
CONCLUSION and Style of Criminal		216; see, also, State Constitu-	
Process (Const., sec. 170).		tion, Preliminary Part of Crim-	
CONDEMNATION Proceedings;		inal Code.	
Right of Appeal In (Const.,		CONSTITUTION	436-438, 390-392
sec. 235).		CONSTITUTION of Alabama, 1819.	
CONDEMNATION by Municipalities		63-85	
1439-1442		" of Alabama, 1861	86-106
" of Lands for Public Uses (Civil		" of Alabama, 1865	107-124
Code)	3860-3908	" of Alabama, 1868	125-148
" of Lands to United States. 2413-2428		" of Alabama, 1875 and 1901,	
" Proceedings by United States..		Paralleled, Annotated, and	
2413 et seq.		Indexed, Found in Prelimi-	
" Rights of Municipalities	1439	nary Matter of Criminal	
CONDITIONAL Sales (Civil Code).		Code.	
3393-3395, 3789-3791		" of United States	149-173
CONFEDERATE Monument Commis-		" of United States, Index to. 174-216	
sion	1039-1045	" Amendment of (Const., secs.	
" Soldiers and Sailors	1995-2055	284-287).	
" Soldiers' Home	2038-2053	" Laws not Inconsistent with	
" Soldiers; Pensions for	1995-2037	Constitution Remain in	
CONFEDERATION ; Article of (pp.		Force, Schedule 1.	
7-15).		" Legislature Must Give Effect	
CONFERENCE ; Committees of; Re-		to Each Provision (Const.,	
ports of (Const., sec. 64).		sec. 282).	

SECTION.	SECTION.
CONSTITUTION , Notice of Local or Special Laws Required by (Const., sec. 106).	CONVENTION , Right of People to Assemble (Const., sec. 25).
“ Not Repealed, Schedule 1.	“ to Amend Constitution (Const., secs. 284-287).
“ Part Void Not Affect Other Part (Const., sec. 196).	CONVEYANCES and Loans (Civil Code) 3354-3444
“ Ratification of, Schedule 1-6.	“ by State 888- 891
CONSTRUCTION 1- 11	CONVICTION of Treason (Const., sec. 18).
“ (Civil Code) 3396-3440	“ of Treason, Murder, Arson, etc., Disqualifies from Voting or Holding Office (Const., sec. 182).
CONSTABLES (Civil Code).... 3324-3333	“ Shall Not Work Corruption of Blood or Forfeiture of Estate (Const., sec. 19).
CONSUMPTIVES Cared for.... 771- 792	CONVICT System (Criminal Code). 6479-6607
CONTAGIOUS Diseases (Health and Quarantine) 698- 792	CONVICTS and Prisoners..... 6608-6619
“ Diseases 716	“ Insane, Committed to Hospital 871 et seq.
CONTEMPT , Power of General Assembly to Punish for (Const., sec. 53).	CO-OPERATIVE Association (Criminal Code) 7424, 7425
CONTEST Election for Governor, etc. (Const., sec. 115).	CORN 2439
“ (Const., sec. 189).	“ Meal (Criminal Code).... 6620-6622
CONTESTED Elections (Elections) 455- 491	CORONERS 101- 112
CONTEMPTS (Civil Code) 4630-4632	Election, Term, etc. 101
“ (Criminal Code)... 6993, 6995, 7032, 7038, 7534	Vacancy 102
CONTINGENT Fund 608, 1780	Bond 103
“ Remainder (Civil Code) .. 3398-3401	Duty to Hold Inquests..... 104
CONTINUANCES (Civil Code) 3126	To Discharge Duties of Jailer.. 105
CONTRACT of Employment, Violations of (Criminal Code).. 6845-6857	To Discharge Duties of Sheriff.. 106- 107
CONTRACTOR (Civil Code) .. 4754-4783	Process Directed to Sheriff..... 108
CONTRACTS to Convey Land (Civil Code) 3441-3444	Additional Bond; Failure to Give Vacates Office 109
CONTRACTS (Civil Code) 3334-3353	Liability 110
“ (Criminal Code) 6473-6478	Special Coroner 111
“ Shall Not be Impaired (Const., sec. 22).	Duties of 112
“ for Printing, Stationery, etc. (Const., sec. 69).	CORPORATIONS (Civil Code) 3445-3661
“ Remedy for Enforcement Shall Not be Impaired (Const., sec. 95).	“ Foreign; Rights and Duties of (Civil Code) 3638-3661
“ of Municipalities..... 1193 et seq.	“ Municipal 1046-1460
CONTRIBUTION (Between Creditors of Insolvent Estate) (Civil Code) 2785-2787, 5405	“ (Criminal Code) 6623-6630
CONVENE , Governor May Convene Legislature (Const., sec. 122).	“ (Const., secs. 220-246).
	“ Classified for Franchise Tax.. 2392 et seq.
	“ Charter; How Amended or Extended (Const., sec. 104).

SECTION.	SECTION.
CORPORATIONS , Charter of, Altered, Amended, or Revoked (Const., sec. 238).	COSTS or Fees Must Not Be Increased or Diminished (Const., sec. 281).
“ Corporate Powers Must be Conferred by General Law (Const., sec. 229).	CO-SURETIES (Civil Code)....5384-5409
“ Effect of Failure to Organize (Const., sec. 230).	“ Rights of 1548
“ Equal Taxation (Const., sec. 217).	CO-TENANTS , Offenses Concerning (Criminal Code) 7821
“ Exempt from General Law (Const., sec. 104).	“ (Partition) (Civil Code)..5203-5264
“ Fictitious Issue of Stock (Const., sec. 234).	COTTON Mills, Inspection of (Criminal Code)7212-7222
“ Foreign, Doing Business in the State (Const., sec. 232).	“ (Civil Code)3730-3734
“ Foreign; Service of Process on (Const., sec. 232).	“ (Criminal Code)6671-6690
“ Municipal; Powers of (Const., sec. 89).	“ Seed (Weight Per Bu. 32 Lbs.) 2439
“ Must be Organized Under General Law (Const., sec. 229).	COTTONSEED MEAL; REGULATION OF49, 50
“ Name; How Changed (Const., sec. 104).	Sale of 49
“ Power and Right to Sue and Be Sued (Const., sec. 240).	Duty of State Chemist..... 50
“ Preferred Stock; How Issued (Const., sec. 237).	COTTON STATISTICS113- 120
“ Property and Franchises of Taken for Public Use (Const., sec. 23).	Established 113
“ See Banks and Banking (Const., secs. 247-255).	Director; Appointment, Salary, and Bond of 114
“ Stockholders; Liability of; Extent of (Const., sec. 236).	Duties of Director 115
“ Stock of; How and for What Issued (Const., sec. 234).	Ginners Notify Director 116
“ Telegraph and Telephone Companies' Lines Constructed and Maintained (Const., sec. 239).	Record of Ginneries..... 117
“ Term Defined (Const., sec.241).	Field Agents 118
“ Which May do Business in This State (Const., secs. 232, 233).	Expenses of Bureau..... 119
“ Shares of; Tax on..... 2182	Laws Repealed 120
CORRUPTION of Blood; not worked by Conviction (Const., sec. 19).	COUNCIL of Municipalities....1192-1198
COSTS and Fees (Civil Code)..3662-3729	“ of Municipalities; Powers of. 1192 et seq.
“ (Criminal Code).....6631-6670	COUNSEL , Right of to Prosecute or Defend Civil Action (Const., sec. 10).
“ Fees, Regulated by General Law (Const., sec. 96).	“ Right to Appeal in Criminal Cases (Const., sec. 6).
	“ (Criminal Code)7839-7841
	COUNTERFEITING (Criminal Code) 6909-6919, 7077, 6882
	COUNTIES121- 207
	Bonds; Election as to Issue....158- 174
	Claims, Debts, and Demands Against County146- 154
	Auditing and Registry 146
	Itemized, Proved, Entered, and Filed 147
	By Executor, etc. 148
	Withdrawal of 149
	Barred if Not Presented..... 150
	Barred if Records Burnt..... 151
	Lights and Fuel Furnished Courts 152
	Preferred Claims 153

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Counties—Continued.	SECTION.
Indebtedness Funded	154
Laws of Codified	156
Maps, Plats, or Abstract of Boundaries	157
Names of	121- 123
Number	121
Transfer of State Funds from..	122
Body Corporate	123
New Counties	124- 127
Share of Debts Paid by.....	124
How Ascertained	125
Assessment and Collection of Taxes	126
Apportionment	127
Property of, Buildings, Courthouses, Jails, etc.	128- 145
Jurisdiction Over Navigable Streams	128
Deeds for Use of County	129
Commissioners Custody of Property; May Sell	130
County Buildings Erected and Repaired	131
Sheriff Charge of Courthouse, etc.	132
Erection of Buildings	133
Special Tax for	134
When Courthouse Cannot be Occupied	135
County Jail	136
Tax for Building or Repairing..	137
Tax for Courthouse or Jail.....	138
Special Tax; How Levied.....	139
Heating Jail, etc.	140
Special Appropriations for ..	141- 142
Duty of Sheriff as to.....	143
Examination of Jail	144
Right to Condemn for Public Use	145
Sites and Courthouses, Changing and Locating; Election for	175- 207
COUNTIES , Area 600 Square Miles (Const., sec. 39).	
" Costs and Fees Shall be Uniform (Const., sec. 96).	
" New; How Formed (Const., sec. 39).	
" Number of Representatives Entitled to (Const., sec. 202).	
" Property of, Not Taxed (Const., sec. 91).	
" Shall Not be Stockholder in Bank (Const., sec. 253).	

COUNTIES Shall Not be Stockholder in Corporation (Const., sec. 94).	SECTION.
" Shall Not Lend Credit to Private Enterprise (Const., sec. 94).	
" Shall Not Lend Their Credit to Bank (Const., sec. 253).	
COUNTY Board of Education ..	1712-7115
" Bonds	158- 174
" Buildings	128- 145
" Commissioners; Duties as to Taxes	2146-2159
" Commissioners (Civil Code)..	3306-3322
" Courts (Criminal Code).....	6696-6732, 6655, 6656
" Debts and Claims	146- 155
" Health Officers	706 et seq.
" High Schools	1861-1868
" Laws Codified	156
" Local Option Prohibition Law	492- 511
" Property (Criminal Code)....	6691
" Superintendent	1702-1710
" Tax Commissioners	2236 et seq.
" Officers; Terms of Office..	1461-1466
" Officers; when Elected.....	334
" Sites, Changing and Locating	175- 207
" Surveyors (Civil Code)...	6016-6027
Constitutional Provisions.	
" Bonds; Issuing (Const., sec. 222).	
" Bonds; Refunding (Const., sec. 224).	
" Boundaries; How Changed (Const., sec. 39).	
" Debts; Limited (Const., sec. 224).	
" Line of New County Must Not be Within Seven Miles of Courthouse of Old County (Const., sec. 40).	
" of Mobile Excepted from Art. 14 (Education or Schools) (Const., sec. 270).	
" of Trial in Which Offense is Committed (Const., sec. 6).	
" Seat; How Changed (Const., sec. 104).	
" Treasurer; Oath of Office (Const., sec. 279).	
COUNTY TREASURER	208- 218
Election and Term of Office....	208

With References to Volumes II and III, and the Constitution of Alabama, 1901.

County Treasurer—Continued.	SECTION.	SECTION.
Vacancy; How Filled	209	COURTS , Circuit; Clerks; Election;
Bond	210	Term of Office; Vacancy; How
Duties	211	Filled (Const., sec. 165).
Claims; How Paid	212	“ Circuit; Judges, Incompetency
Books	213	of (Const., sec. 160).
Annual Account Recorded.....	214	“ Circuit, Jurisdiction of (Const.,
Accountant to Examine Books		sec. 143).
and Vouchers	215	“ Circuit; Residence of Judge
Death of or Termination of Of-		(Const., sec. 142).
fice	216	“ Circuit; Sessions at Least
Compensation	217	Twice a Year (Const., sec.
Forms of Accounts	218	144).
COUPONS of Municipal Bonds.....	1434	“ Clerks of Supreme; Appoint-
COURTHOUSE ; How Moved (Const.,		ment and Term of Office
sec. 41).		(Const., sec. 164).
“ Site Changed (Const., sec. 104).		“ Clerks; Removal from Office
“	132-135, 139, 175- 207	(Const., sec. 166).
COURTHOUSES , Jails, County Build-		“ Consolidation of Circuit and
ings	128- 145	Chancery Jurisdiction
COURT Records (Civil Code)..	5732-5745	(Const., sec. 148).
COURTROOM , Persons Excluded		“ Failure of Judge to Attend
from During Trial (Const., sec.		Regular Terms of (Const.,
169).		sec. 161).
COURTS (Civil Code)	4630, 4632	“ Incompetency of Judges
“ (Criminal Code)	6692-6745	(Const., sec. 160).
“ Chancery (Civil Code) ...	3042-3228	“ Judges Conservators of Peace
“ Circuit (Civil Code)	3229	(Const., sec. 157).
“ City (Civil Code)	3296-3300	“ Judges, Election of (Const.,
“ Commissioners' (Civil Code)..	3306	secs. 152, 153).
“ County (Civil Code).....	6696-6732	“ Judges, Eligibility of (Const.,
“ Justices of the Peace (Civil		sec. 154).
Code)	4637-4730	“ Judges; Incompetent or Dis-
“ Martial	979	qualified; Special Appointed
“ Municipal	1213-1229	(Const., sec. 160).
“ of Law and Equity (Civil		“ Judges of Several Courts May
Code)	3296-3300, 6230-6234	Hold Court for Each Other
“ Supreme (Civil Code)....	5948-6015	(Const., sec. 144).
Constitutional Provisions.		“ Judges' Salary; Compensation
“ Abolition of by Legislature		of (Const., sec. 150).
(Const., sec. 171).		“ Judges Shall Hold No Other
“ Chancery; Jurisdiction; Chan-		Office of Profit or Trust
cery Division (Const., sec.		(Const., sec. 150).
145).’		“ Judges Shall Not Practice Law
“ Chancery or Circuit Divisions		(Const., sec. 162).
Shall Not Contain Less than		“ Judges; Terms of Office (Const.,
Three Counties; Exception		sec. 155).
(Const., sec. 147).		“ Judges; Vacancy in Office;
“ Chancery; Registers; Appoint-		How Filled (Const., sec.
ment, Terms, Fees, and Com-		158, 159).
penensation (Const., sec. 163).		“ Judges Who May Issue Injunc-
“ Chancery; Residence of Chan-		tion (Const., sec. 144).
cellor (Const., sec. 145).		“ Judge as to Matter of Law,
“ Chancery; Terms Twice a Year		Whether General (Const.,
(Const., sec. 146).		sec. 105).

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Constitutional Provisions. SECTION.	SECTION.
COURTS , Judicial Power of State (Const., sec. 139).	CRIMES Which Disqualify from Office (Const., sec. 60).
“ Jurisdiction of Chancery or Circuit May Each be Conferred Upon the Other (Const., sec. 148).	CRIMINAL Proceedings; How Instituted (Const., sec. 8).
“ Laws as to; How Enacted (Const., sec. 105).	“ Prosecutions, Rights of Accused in (Const., sec. 6).
“ New Circuits; Chancery Divisions; Offices, How Filled (Const., sec. 159).	“ Prosecutions; Style and Conclusion of Process (Const., sec. 170).
“ No Court Established in Counties of Less than 20,000, and Property of Three and One-Half Millions (Const., sec. 139).	“ Provisions (Criminal Code)..
“ Open; Justice Administered Without Sale or Denial (Const., sec. 13).	6210-7900
“ Probate; Creation and Jurisdiction of (Const., sec. 149).	CRIMINATING One's Self, as to Registration (Const., sec. 189).
“ State Not Defendant in (Const., sec. 147).	CROPS (Civil Code)
“ Supreme Court; Appellate Jurisdiction Only (Const., sec. 140).	2614, 4734-4746, 5234-5252
“ Supreme Court, Jurisdiction of (Const., sec. 140).	CROSS-BILLS (Civil Code)....
“ Supreme Court, Place of Holding (Const., sec. 141).	3118, 3119
“ Supreme Judges; When and How Elected (Const., sec. 156).	CROSSINGS of Streets, Trains, etc
“ Terms of; How Provided for (Const., sec. 105).	1272
COVENANT (Civil Code)	CRUEL Punishment Denied (Const., sec. 15).
3421	CRUELTY to Animals (Criminal Code)
CREDIT	6230-6234
1901, 1872	CULLMAN Excepted from Rate of Taxation (Const., sec. 216).
CREDITORS' Bills (Civil Code)...	“ Excepted from Constitution, as to Special School Tax (Const., sec. 269).
3735-3744	CURBINGS for Streets and Sidewalks
CREATOR Endowed All People Equally Free (Const., sec. 1).	1373
CREDIT , Not to be Loaned (Const., secs. 93, 94).	DALE County, Part of Taken to Form Houston County (Const., sec. 39).
CREMATORIES , Municipal Regulations	DAMS (Civil Code)
1282	3888-3909
CRIME Against Nature (Criminal Code)	“ (Criminal Code)
6746, 6747	7872
CRIMES Pending Not Affected by Ratification of Constitution, Schedule 2.	DAYS
“ Jury Trial in (Const., sec. 6).	11, 1759
“ Punishment of (Const., sec. 104).	“ (Civil Code)
	5144
	DEAD Bodies and Graves, Offenses Concerning (Criminal Code)..
	6748-6753
	DEAF , Dumb, and Blind (Alabama Institute for the Deaf)...
	1933-1953
	“ Schools for
	1933-1942
	“ School for (Const., sec. 267).
	DEATH of Governor, Result of (Const., sec. 127).
	DEATHS , Report of
	712
	DE BENE ESSE (Civil Code) ..
	4030-4076
	DEBTS Due State (Const., sec. 100).
	“ of State; How Incurred (Const., sec. 218).
	“ Imprisonment for (Const., sec. 20).

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
DEBTS Due State Shall Not be Released (Const., sec. 100).	DELINQUENT Taxes; Municipal ..1319
“ No New Debts Shall be Incurred Against State (Const., sec. 213).	“ Taxes; Tax Commission 2244
“ of County Limited (Const., sec. 224).	DELIVERY of Books and Papers to Succeeding Officer1549-1555
“ of Municipal Corporation Limited (Const., sec. 225).	DEMANDS Against County146- 154
“ of Counties146- 154	“ Against Municipality for Personal Injury 1275
“ of Municipality Limited..... 1430	DEMURRAGE and Car Service (Civil Code)5598-5631
“ of Municipality Refunded.1436-1438	DEMURRER (Civil Code)..... 5340-5345, 5369, 5370
DECATUR Excepted from Constitution as to Special School Tax (Const., sec. 269).	“ to Evidence (Civil Code).5342-5345
“ Excepted from Rate of Taxation (Const., sec. 216).	DENIAL or Sale of Justice (Const., sec. 13).
DECLARE War (Const., sec. 131).	“ Rights; Not Effectual by Failure to Enumerate (Const., sec. 36).
DECLARATION of Independence (pp. 3-6).	DENOMINATIONAL Schools Not Provided for (Const., sec. 263).
DECOYING off Child (Criminal Code)6210-6213	DENOMINATION ; No Preference (Const., sec. 3).
DECREES in Chancery (Civil Code) 3207-3221	DENTISTS219- 227
DEED (Criminal Code) ..6931, 7463, 7477	Board of Examiners 219
DEEDS (Conveyances) (Civil Code) 3354-3444	Qualifications 220
“ Commissioners of 98	Duty and Authority of Board... 221
DE FACTO Officers 1473	Temporary License 222
DEFAMATION , Prosecution for (Const., sec. 13).	License Recorded 223
“ Libel, and Slander (Civil Code) 3745-3753	Proof of License 224
DEFAULT , Judgment by (Civil Code)3852, 5347, 5356	Not to Practice Without License 225
DEFENSE ; Party May Defend His Own Cause (Const., sec. 10).	Quorum of Board 226
“ Party May Defend by Counsel (Const., sec. 6).	When Contracts for Services Void 227
DEFENSES Shall Not be Taken Away (Const., sec. 95).	DENY ; Rights Not Enumerated, Not Denied (Const., sec. 36).
DEFENDANT , Rights of Enumerated (Const., sec. 6).	DEPARTMENTS , Powers of Government Divided Into Three Distinct (Const., sec. 42).
“ State Shall Not be (Const., sec. 14).	DEPOSITARIES641- 655
DEFINITIONS (Criminal Code.6754-6756	Designed 641
“ Words, and Phrases1- 13	Applications 642
DELAY of Justice (Const., sec. 13).	Bonds as Security 643
DELEGATION of Power to Levy Taxes (Const., sec. 212).	Funds; Checking Out 644
DELINQUENT Children (Criminal Code)6450-6465	Amount in Excess of that Allowed, Surplus Remitted.... 645
“ Taxes, Demand for 2171	Receipts for Deposit; Copy Forwarded to Auditor..... 646
	Report Daily to Treasurer; Statements Monthly 647
	Failure to Pay Checks; Penalty. 648
	Sale of Bonds; Bonds Registered 649
	Bank Withdraw Securities 650
	Notice of Cessation 651
	Costs and Risks of 652
	Rules and Regulations for..... 653

With References to Volumes II and III, and the Constitution of Alabama, 1901.

DEPOSITARIES—Continued.	SECTION.	DISPOSING of Mortgaged Property	SECTION.
Placing Not Mandatory.....	654	(Criminal Code)	7423
Treasurer May Deposit Bonds in	655	“ of Property Unlawfully (Crim-	
DEPOSITION (Criminal Code).7886-7890		inal Code)	6920-6934, 6240, 7342, 7343, 7423, 7821
DEPOSITIONS (at Law) (Civil		DISPOSITION of Farm Products	
Code)	4030-4057, 3139-3156	(Criminal Code)	6878, 6879
DEPOSITORS , Preferred (Const.,		DISQUALIFICATIONS to Hold Of-	
sec. 250).		fice	1467-1474
DEPOTS , Railroad’s Right to Con-		“ to Office by Reason of Crime	
struct (Const., sec. 243).		(Const., sec. 60).	
DESCENT and Distribution (Const.,		DISSOLVING Corporations (Quo	
sec. 104).		Warranto) (Civil Code)..	5450-5472
DEPUTY Tax Collectors.....	2160-2168	DISTILLERS (License Required for)	2361
DESCENTS and Distribution (Civil		DISTINCTION , Hereditary Denied	
Code)	3754-3777	(Const., sec. 29).	
DETAINED ; For What Cause and		DISTRIBUTEES (Civil Code)..	3754-3777
How (Const., sec. 7).		DISTRIBUTION , Power of Govern-	
DETINUE (Civil Code)	3778-3792	ment (Const., sec. 42).	
DIGEST , Bills for (Const., sec. 45).		DISTRIBUTIONS (Civil Code).3754-3777	
DIGESTING , Statutes Required		DISTRICT of Columbia	7
Const., sec. 85).		DISTRICTS (Chancery) (Civil Code)	
DIRECTORS of Corporations (Civil		3042-3047	
Code)	3463-3466	“ (Congressional)	99, 100
DIRECTOR of Archives and History		“ (School)	1691-1696
797 et seq.		“ (Senatorial)	901
DISABILITIES of Minors (Const.,		“ School, Municipal	1356
sec. 104).		“ Separate, School	1701, 1745
“ of Legislators; How Incurred		DISTRINGAS (Civil Code)	3784
(Const., sec. 79).		DISTURBING Females, Religious	
DISCHARGE (Civil Code).....	5371, 3973	Worship, and School Assem-	
“ of Sureties on Official Bond..		blies (Criminal Code) ...	6767-6769
1540-1548		DIVISIONS , Chancery (Civil Code)	
DISCLAIMER (Civil Code)....	5448, 3843	3042-3051	
DISCONTINUANCE (Civil Code)..		DIVORCE and Alimony (Civil Code)	
2502, 2887		3793-3811	
DISCOVERY (Civil Code)		DOCTORS , Offenses Concerning	
4049-4057, 3735-3744, 3134-3138		(Criminal Code)	7564
DISCRIMINATION and Extortion		“ Examination of	1626-1646
Prohibited on Railroads (Const.,		DOCUMENTARY Evidence (Civil	
sec. 243).		Code)	3965-4006, 4058, 4059
DISCRIMINATIONS , Prohibited		DOGS (Civil Code)	2832-2836
(Const., sec. 22).		“ (Criminal Code)	6235, 6236
DISEASES , Contagious and Infec-		DOMESTIC Animals, Offenses Con-	
tious, Provided Against (Const.,		cerning (Criminal Code)..	6230-6242
sec. 122).		“ Relations (Civil Code)	
“ Contagious, Infectious, etc....	716	4337-4481, 4486-4504, 4877-4891	
DISPENSARY Laws; How Enacted		DOMICILE or Residence	295, 296
Const., sec. 104).		DOMINOES	2361
DISPENSARIES	228- 289	DOORS of Legislature; When and to	
Local Option Law	228- 243	Whom Open (Const., sec. 57).	
Maintaining and Operating....	244- 288	DORMANT Municipalities	1059
Profits Divided Between Cities and			
Counties	289		

SECTION.	SECTION.
DOWER (Civil Code)3812-3837	Ballot or Ticket; How Fixed or Voted; Conduct of Elections
DRAINAGE in Municipalities..1302-1308	381- 406
" Municipal Regulations 1283	To Vote a Straight Party Ticket 381
DRAWBRIDGE (Civil Code) ...5478-5480	To Vote for One Candidate Not on Party Ticket 382
DRUGGISTS and Pharmacists (Criminal Code)7549-7563, 7577	To vote for Two or More Candidates on Different Tickets.. 383
" Examination of1618-1625	To Vote a Split Ticket..... 384
DRUGS , Sale of Regulated.....1618-1625	When Straight Ticket Does Not Contain Name of All Officers 385
DEUNKARDS , Estate of (Civil Code)4611-4618	To Vote for Person Whose Name is Not on Ballot 386
DRUNKENNESS (Civil Code) .4611-4618	To Vote a Blank 387
" (Criminal Code) ...6770, 6793, 7843	Booths Provided by Sheriff.... 388
" Ground for Impeachment of Officers (Const., secs. 173, 174).	Must be by Official Ballot 389
DUCES TECUM (Civil Code) ..4060, 4061	Constitutional Amendment, Ballot for 390
DUELING1467, 1475	Ballots Paid for by Counties and Cities 391
" (Criminal Code)....6771, 6772, 7085	Certificates of Nomination Preserved 392
" Oath 1475	Ballots Bound Together..... 393
" Suppression of (Const., sec. 86).	Number of Ballots per Voter.... 394
DUE Process of Laws (Const., secs. 6, 7, 13).	Municipal Election 395
" Process of Law, All Persons Have Remedy by (Const., sec. 13).	Polls; How Long Open 396
DUTIES of Governor (Const., sec. 124).	Proclamation; Polls Open 397
EDUCATION1348-1358, 1678-1953	Vote in County and Precinct of Residence 398
" (Const., secs. 256-270).	Regulations as to Voting 399
" See "Schools"1678-1953	Assistance of Ticket Fixer..... 400
" Property Used for Not Taxed (Const., sec. 91).	Candidate Not Ticket Fixer..... 401
" and Schools, Municipal...1348-1358	Spoiled Ballot 402
EDUCATIONAL Qualifications as to Suffrage Denied (sec. 38, Const., 1875).	Ballot Folded; Name of Voter Called by Inspector 403
" Qualification to Vote (Const., sec. 181).	Deposit of Ballot 404
" Institutions, How Appropriations Made for (Const., sec. 73).	Instruction Cards to Voters 405
" Boards, Municipal 1355	Blanks and Stationery 406
EJECTMENT (Civil Code)....3838-3859	Ballots, Form and Character of—
ELECTION of Punishment (Criminal Code)7607, 7806	Nominee May Decline373- 390
ELECTIONS290- 511	How Printed 373
Amendments to the Constitution	Party Emblem 374
436- 438	Certificate as to Emblem 375
Counting and Returning the Vote 436	Emblems Not Adopted 376
Returns Made to Secretary of State 437	Emblems When Party Divided.. 377
Returns Counted; Result Proclaimed 438	Form of 378
	How Printed 379
	For Independent Candidates 380
	Canvassing Returns of Elections
	for County420, 421
	Time and Manner of..... 420
	Declaration; When and How Made 421

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
Canvass of Returns and Declaration of Result for State Officers...	Conduct and Management of...
422- 427	354- 372
Returns by State Officials	Numbering of Ballots
422	354
Governor Proclaims Result	Certificate of Result
423	355
How Certified	Returning Officer
424	356
Results Open to Inspection.....	Notice of
425	357
Certificates to Members of Congress and Legislators	Time and Place of
426	358
Legislators, Election of; How Determined	Officers Failing to Attend
427	359
Certificate of Election	No Adjournment
435	360
Delivered to Probate Judge to Be Forwarded	Inspectors Appoint Returning Officer
435	361
Challenge of Voter	Inspectors and Clerks Appointed
407- 411	362
Oath	Certificate and Receipt, When Not Required
408	363
Oath to Establish Identity	Poll Tax List Furnished
409	364
Rejected if Refuses to Take Oath	Poll Tax List Delivered
410	365
Warning of False Oath.....	Returns; How Made
411	366
Contesting	Poll List Sealed
455- 459	367
Grounds of Contest	Candidate Barred by Bribery... ..
455	368
Election not Annulled	Oaths of Election Officers.....
456	369
Voter Must Answer as to Qualification	Challenge of Voters
457	370
Party May Have a Copy of Registration and Poll Lists....	Limit of Polling Place
458	371
Jurisdiction Denied Courts of Chancery	Names on Ballots; Certificate of Nomination
459	372
Contesting Legislators, Chancellor, Circuit Judge, Justice of Peace, or Constable	Counting of Votes by Inspectors..
460- 477	413- 419
Grounds of Contest	By Whom and How Made... ..
460	413, 414
Notice	Sealed, Certified, and Delivered. ..
461	415
Security for Costs	Ballots Labeled, Sealed, and Delivered
462	416
Senator or Representative	Ballots Kept Six Months
463	417
Testimony; How Taken	Returns; Time of Making
464	418
Depositions Returned	Pay of Officers
465	419
Costs Taxed; Execution Issued..	Electors and Voters; Who Are and Who Are Not
466	290- 297
Contest of Chancellor	Qualification to Vote
467	290
Procedure; Testimony	Foreigners; Right to Vote....
468	291
Of a Judge of the Circuit Court. ..	Changing Precinct or Ward....
469	292
Of Judge of Probate	Disqualification to Vote.....
470	293
Of Justice of the Peace; Constable	Pardon Restores Citizenship....
471	294
Procedure; Testimony	Residence Acquired or Lost ...
472	295
Ballots Examined	Residence in Two or More Counties
473	296
Judgment Rendered	Liners Between Counties or Precincts
474	297
Not Abated by Death of Contestant	Electors for President and Vice President; Representatives in Congress
475	446- 451
Appeals	To Be Elected
476	446
Costs of Appeals	Returns to Secretary of State... ..
477	447
	Governor Gives Notice of Election
	448
	Tie, Governor Gives Casting Vote ..
	449
	Vacancies, Filling
	450

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Elections—Continued.	SECTION.	SECTION.	
Compensation of Electors	451	Commission Power to Punish for Contempt	485
Elector Privileged from Arrest. 298,	299	Evidence Confined to the Allegations	486
Failing to Make Returns	433, 434	Each Party Entitled to be Present	487
Penalty Declared	433	Report Conclusions and the Evidence	488
Notice to the Solicitor	434	Pay of Witnesses	489
New Counties	452-454	Duty of Sheriffs	490
Suffrage; Representation	452	Execution for Costs	491
Right to Vote in	453	Tie, How Decided	428-432
Returns of Elections to Congress and Legislature in New County	454	How Decided	428
Officers of Elections; Appointment and Duties of	347-353	Probate Judge Failing, Circuit Judge Must Perform Duties. 429	
How Appointed	347	Poll Tax, When Due, When Delinquent; Collection of	430
Sheriff Notifies	348	Precinct; Meaning of	431
County Officers Not Eligible, Appointing Boards	349	Primary Included in General Elections	432
Places; How Supplied	350	Time and Place of Election ... 331-338	
Proceedings When No Register..	351	State Officers	331
Political Parties Furnish Lists..	352	General Election; for Whom Held	332
Watchers; Appointed and Duties	353	Time of General Election.....	333
Precincts, Polling Places, and Boxes	339-346	County Officers; When Elected..	334
Election Precincts	339	Justices of the Supreme Court; When Elected	335
Establishment, Change, and Abolition	340	Circuit and Probate Judges; When Elected	336
Two Places of Voting in the Same Precinct	341	Circuit Solicitors; When Elected	337
Orders For	342	Presidential Electors and Congressmen; When Elected... 338	
Numbers and Boundaries of Precincts	343		
Places of Voting	344		
Notice of Change	345		
Ballot Boxes, Provided	346		
Sheriff Must Preserve Order at Elections	412		
Special Elections	439-445		
When and For What Offices Held	439		
Day For Holding	440		
Ordered by Governor	441		
Proclamation for Congress or State Officers	442		
Sheriff to Give Notice.....	443		
Notify Probate Judge and Clerk.	444		
How Conducted, and Certificates Given	445		
State Officers	478-491		
Statement; Bond	478		
Statement; Verification, Service, Amendments	479		
Tried by Joint House and Senate	480		
Commission to Take Testimony..	481		
Sitting of Commission	482		
Notice to Adverse Party	484		
		Constitutional Provisions.	
		ELECTIONS and Suffrage (Const., secs. 177-196).	
		“ as to Amendment of Constitution (Const., secs. 284-287).	
		“ as to Bond Issues (Const., sec. 222).	
		“ as to Change of Wards, Beats, and Precincts (Const., sec. 104).	
		“ by Legislature, Mode of (Const., sec. 83).	
		“ (Const., sec. 196).	
		“ Perjury as to (Const., sec. 189).	
		“ Controlled by Constitution (Const., secs. 183, 184).	
		“ Contest of	460-491
		“ Dispensary	228-243
		“ General	290-511

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Elections and Suffrage—Cont'd. SECTION.	SECTION.
" Local Option492- 511	Notice 542
" New Counties452- 454	Licensed; Fee 543
" Municipal1164-1171	Annual Dues 544
" Offenses Concerning (Criminal Code)6773-6826	Unlawful to Practice Without License 545
" Primary512- 537	EMBALMING538- 545
" Officers of347- 353	" (Criminal Code) 6827
" Special439- 445	EMBEZZLEMENT (Criminal Code). 6828-6843, 6681, 7327
" School Tax1851-1860	EMIGRANT Agents (Criminal Code) 6844
" to Change County Site.....175- 207	EMIGRATION Allowed (Const., sec. 30).
" to Issue County Bonds.....158- 174	EMINENT Domain (Civil Code).. 3860-3909
" Must Be Uniform (Const., sec. 190).	" Domain Municipalities ..1439-1442
" By Legislature Must Be Viva Voce Vote (Const., sec. 83).	" Domain Rights of Municipalities1439-1442
" of All Executive Officers, How Contested (Const., sec. 115).	" Domain, How Exercised; Shall Not Be Abridged (Const., sec. 23).
" of Senators and Representatives (Const., sec. 46).	" Domain, Just Compensation Must Be Ascertained and Paid (Const., sec. 235).
" Persons Disqualified Registering or Voting (Const., secs. 182-184).	" Domain, Right of Appeal in Condemnation Proceedings (Const., sec. 23).
" Primary (Const., sec. 190).	EMIT Bills of Credit, Denied State (Const., sec. 247).
" as to Taxation (Const., sec. 216).	EMOLUMENTS , of Militia (Const., sec. 278).
" Registration, Who Entitled to Register, Mode of Registration (Const., secs. 180-196).	" of Office, Increased Effect of (Const., sec. 59).
" When by Ballot, and Viva Voce (Const., sec. 179).	" See "Fees and Salaries."
" Who Entitled to Vote (Const., secs. 177-184).	EMPLOYEE and Employe Liability Act (Civil Code)3910-3913
" Returns of (Const., sec. 193).	EMPLOYERS and Employes, Offenses Concerning (Criminal Code).. 6845-6857
ELECTOR Privileged from Arrest.. 298, 299	" Liability Act (Civil Code).... 3910
ELECTORS , Presidential, How Selected446- 451	EMPLOYES of Legislature (Const., sec. 67).
" Who Are290- 297	" of Municipalities, Compensation of1256, 1257
ELECTRIC Plants of Municipalities 1260-1263	ENCLOSURES (Civil Code) ...4240-4244
ELIGIBILITY to Vote (Const., sec. 180.)	ENEMY to State, to Provide Against (Const., sec. 122).
" of Executive Officers (Const., secs. 116, 117, 132).	" Adhering to, Giving Aid or Comfort, Treason (Const., sec. 18).
" of Judicial Officers (Const., sec. 154).	ENGAGING in Business Without License (Criminal Code) ...7712-7715
" of Legislative Officers (Const., sec. 47).	ENGINEER , Railroad (Civil Code).. 5473-5483
" to Office1467-1474	ENGLAND , Common Law Adopted.. 18
EMBALMERS538- 545	
Board of 538	
Appointments; Term of 539	
Certificate of 540	
Powers and Duties of the Board. 541	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.		SECTION.
ENGROSSED Copy of Laws	910	EXAMINERS OF PUBLIC AC-	
ENGROSSING Clerks	920 et seq.	COUNTS	546-549
ENROLLING Clerks	920 et seq.	Assistant Examiners	546
ENSLEY Excepted from Rate of Taxation (Const., sec. 216).		Commission; Authority	547
ENUMERATION of Certain Rights Do Not Exclude Others (Const., sec. 36).		Appointment Revocable	548
“ for Schools, Const., sec. 268).		Examiner's Report	549
“ of Inhabitants (Const., sec. 201).		EXAMINEE of Public Accounts, Oath of Office (Const., sec. 279).	
“ of School Children	1717, 1718	EXCEPTIONS (Civil Code) ...	3131, 3137, 3161, 3016-3022
EQUAL Protection of the Law (Const., sec. 1).		EXCESSIVE Bail Not Required (Const., sec. 16).	
EQUITABLE Attachments (Civil Code)	3179-3192	“ Fines Not Allowed (Const., sec. 15).	
EQUITY of Redemption (Civil Code)	4091	EXCLUSIVE Grants, Franchises, Privileges, and Immunities Denied (Const., sec. 22).	
“ Rights, and Remedies (Chan- cery) (Civil Code) ...	3042-3228	EXECUTIONS and Judgments (Civil Code)	4077-4159
ERRONEOUS Sales for Taxes ..	2332-2339	EXECUTION of Sentence (Criminal Code) ...	7191-7211, 6580-6592, 6596, 6602-6605, 6512-6533, 6536-6572, 6575, 7639-7652
ERROR and Appeal (Civil Code) ..	2837-2895	EXECUTIVE Department	550-655
“ (Criminal Code)	6243-6266	Constitutional Provisions.	
ERRORS (Civil Code)	2892, 3256	“ Officers, Terms of	1461-1466
“ in Probate, Bills to Correct (Civil Code)	3914-3917	“ Department (Const., secs. 112- 138).	
ESCAPED Taxes	2195, 2196	“ Department, Defined (Const., sec. 112).	
“ Taxes, Municipal	1327	“ Offices, Vacancies in Filled by Governor (Const., sec. 136).	
“ Taxes Reported	2196	“ Powers of Government (Const., sec. 42).	
ESCAPES (Criminal Code) ...	6858-6872	“ Officers, Bribery (Const., sec. 80).	
ESCHEATS (Civil Code)	3918-3926	“ Officers, Eligibility of (Const., secs. 117-132).	
“ Shall Be Applied to Schools (Const., sec. 258).		“ Officers, Residence of (Const., sec. 118).	
ESTATE , Forfeiture of (Const., sec. 19).		“ Officers, Making False Report Impeachable Offense (Const., sec. 121).	
ESTATES , Fee Simple, Conditional (Civil Code)	3396-3444	“ Officers Shall Make Report to Governor (Const., sec. 137).	
“ of Decedents (Civil Code) ..	2507-2829	“ Officers, Impeachment of (Const., sec. 173).	
ESTRAYS and Animals Running at Large (Civil Code)	3927-3957	EXECUTOR De Son Tort (Civil Code)	2801
EVIDENCE (Civil Code)	3958-4076	EXECUTORS and Administrators (Civil Code) ..	2507-2829, 6152-6209
“ (Criminal Code)	6873-6876	“ Et Al., Investment of Trust Funds (Const., sec. 74).	
“ Accused Not Compelled to Give Against Himself (Const., sec. 6).			
“ Sufficiency of for Treason (Const., sec. 18).			
EXAMINATION of Banks by State (Const., sec. 254).			
“ of Teachers	1719-1750		
EXAMINATIONS in Public Schools.	1758		
EXAMINER of Accounts, Municipal.	1229		

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.
EXECUTORIAL Devise (Civil Code) ..	3398
EXEMPTION , None Against Taxes ..	2178
EXEMPTIONS from Taxation ..	2061-2073
" (Civil Code)	4160-4237
" from Road Duty, Inhabitants of Municipality	1336
Constitutional Provisions.	
" (Const., secs. 204-210).	
" Amount of (Const., sec. 204).	
" as to Estate of Decedent (Const., sec. 208).	
" Debts and Demands Within the Exemptions (Const., secs. 204-207).	
" Homestead; Amount and Value (Const., sec. 205).	
" How Laws Enacted (Const., sec. 104).	
" Property of Female (Const., sec. 209).	
" Value Ascertained and Claim Secured (Const., sec. 92).	
" from Taxation (Const., sec. 91).	
" Waiver of Rights (Const., sec. 210).	
EXHIBITS (Civil Code)	3144
EXILE Denied (Const., sec. 30).	
EX-OFFICIO Justice of the Peace, Governor May Appoint (Const., sec. 168).	
EXPELLING Legislators (Const., secs. 53, 54).	
EXPERIMENT STATIONS AND	
SCHOOLS	53- 69
Alabama Polytechnic Institute..	53
Canebrake	54
Board of Control	55
Authority of Board	56
Duties of Board	57
Expenses of Station	58
Branch Stations and Schools....	59
Appropriations	60
Treasurer to Give Bond	62
Director of School	63
Bulletins	64
Annual Report	65
Quarterly Report	66
Agriculture Taught	67
Appropriation Withheld	68
Course of Study; Certificate or Diploma	69
EXPLOSIVES in Municipalities....	1271

	SECTION.
EX POST FACTO Laws Denied (Const., secs. 22, 95).	
EXPRESS Companies	2145, 2086
" Companies; Tax on Gross Re- ceipts	2368
EXTENDED Municipalities, Laws Governing	1075-1125
EXTENSION of Limits of Muni- cipalities	1070-1125
" of Municipalities	1075-1125
EXTORTION (Criminal Code).....	
6877, 7455, 7474, 7688, 7823-7825	
" in Office (Const., sec. 8).	
" Railroads Prohibited (Const., sec. 243).	
" and Oppression in Office (Const., sec. 8).	
EXTRAORDINARY Occasions	
" Remedies (Civil Code) ...	4864-4872
FACTORIES , Inspection of (Criminal Code)	
" (Civil Code)	7212-7222 2062 et seq.
FAIRS ; Farmers	70- 72
FAITH and Credit of State and County (Const., secs. 93, 94).	
FALSE Imprisonment (Civil Code).	
4238, 4239	
" Impersonation (Criminal Code)	6922, 6936
" Pretenses (Criminal Code)...	6920, 6938, 7327
" Representations (Criminal Code)	6923-6925
FALSE Report; Offense (Const., sec. 121).	
FARMERS' Institutes	70- 72
FARMING Tools	2062 et seq.
FARM Produce	2062 et seq.
" Products, Sale and Disposition of (Criminal Code)....	6878, 6879
FEES (Criminal Code)	7044, 6631-6670
" and Costs (Civil Code)...	3662-3729
" and Compensation of Muni- cipal Officer	1255-1257
" and Allowances of Public Offi- cers; How Changed (Const., sec. 104).	
" Regulated by General Law (Const., sec. 96).	

SECTION.	SECTION.
FEES and Salaries of State Officers (Const., sec. 137).	Unlawful to Sell 34
" Compensation, and Salaries of Solicitors (Const., sec. 167).	Parol Evidence 35
" Not Increased or Diminished (Const., sec. 281).	Brand to Ingredients 36
" of County and Municipal Not Increased During Term of Office (Const., sec. 68).	Penalty, Value Not Sustained.. 37
" Reduced, for Neglect of Duty (Const., sec. 87).	"High Grade" Fertilizers 38
FEE Simple Estate (Civil Code).. 3396, 3423 et seq.	Uniformity in All Brands..... 39
" Tail Estates (Civil Code)..... 3397	Material Forbidden to be Sold.. 40
FELONIES (Criminal Code)...6756, 7129	Rules by Commissioner 41
" Not Entitled to Office (Const., Sec. 182).	Acid Phosphate 42
" Jurisdiction of Circuit Court of (Const., sec. 143).	Samples; How Procured 43
FELONS ; Fugitives (Criminal Code) 6939-6953	Testing Character of Fertilizer.. 44
FELONY293, 1467	Fertilizer, What Not 45
" (Civil Code) 3255	Chemist of Department 46
" Compounding (Criminal Code) 6469	Analysis by Alabama Polytech- nic Institute 47
FEMALES1, 1450	Copy of Analysis; Evidence ... 48
" (Civil Code)3070, 5163	FICTITIOUS Issue of Stock (Const., sec. 234).
" (Criminal Code)6217, 6737	FIELD-NOTES 573
" Not Worked on Streets..... 1450	" (Civil Code) 3984
FENCE Law Districts (Civil Code). 5881-5898	FIERI FACIAS (Civil Code) ...4077-4159
FENCES and Livestock (Civil Code) 4240-4259	FIGHTING (Criminal Code) 6222, 6893, 6306-6308, 6771, 7085
" (Criminal Code)6413, 6414	" Cocks (Criminal Code) ..6467, 6468
FERRIES (Civil Code)3023-3040	FILES of Court (Civil Code) ..5734 et seq.
" (Criminal Code)7822-7825	FINAL Record (Civil Code).3074 et seq., 5733 et seq., 3272 et seq.
" How Licensed (Const., sec. 104).	FINES (Criminal Code).....6627, 7633
FERTILIZERS24- 48	" and Forfeitures (Criminal Code)6898-6892
" (Criminal Code)6880-6887	" and Forfeitures, Remitted by Governor (Const., sec. 124).
FERTILIZERS, SALE OF24- 48	" How Remitted (Const., secs. 104, 124).
Registration, Branding, Sale, Tagging, and Analysis 24	" Not Excessive (Const., sec. 15).
License 25	" Constitution (Schedule 2).
Proof as to 26	FIREARMS (Criminal Code)...6893-6897
Requisition for Tags 27	FIRE Department in Municipalities. 1265
Tags Supplied; Account Kept... 28	" Limits 1264
Surplus Tags Destroyed 29	" Hunting (Civil Code) 4485
Commissioner Liable for Tags.. 30	" Insurance Company (Civil Code)4543-4596
Certify Account for Suit..... 31	FISCAL Agency 626
Issue and Limit of Tags..... 32	" Year Ends September 30..... 614
Tag Tax Vitiates Sale..... 33	FISH and Fishing (Criminal Code.. 6898-6905
	" and Game Department....658- 688
	FLAG2058, 2059

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.

SECTION.

FLOOR of Legislature, Privileges of (Const., sec. 57).

FLORIDA 85

 " Annexation Provided for...80, 81

 " Boundary of Alabama....84, 85

FLOTSAM and Jetsam (Civil Code) 5844-5857

FLOWERS (Horticulture)811- 826

FLYING Jennies 2361

FOAL (Criminal Code) 6240

FOOD, Laws Regulating (Criminal Code)7049-7083

FORCIBLE Entry and Unlawful Detainer (Civil Code)4260-4286

FORDS (Civil Code) 3037

FOREIGN Administration (Civil Code)2556-2565, 2825-2829

 " Corporations2391-2400

 " (Civil Code)3638-3661

 " Corporations; License ..2401-2412

 " Corporations; Franchise Tax.. 2392 et seq.

 " Municipal Corporations ..1443-1449

 " Corporations Doing Business in the State (Const., sec. 232).

 " Corporations, Service of Process on (Const., sec. 232).

 " Residents May Inherit or Possess Property (Const., sec. 34).

 " Territory; How Acquired (Const., sec. 90).

FOREIGNERS (Civil Code) 2831

FORESTS-WOODS, Burning (Criminal Code)6906-6908

FORFEITURE of Estate (Const., sec. 19).

FORFEITURES and Fines (Criminal Code)6888-6892

 " of Charters (Const., sec. 230).

 " of Franchise2364-2390

 " (Civil Code)3510-3517

 " Accrued Remain Unaffected by the Constitution (Schedule 2).

 " and Fine, Remitted by Governor (Const., sec. 124).

 " How Remitted (Const., sec. 104).

FORGERY and Counterfeiting (Criminal Code)6909-6919

FORM of Government, People May Change (Const., sec. 2).

FORMS (Criminal Code).7161, 6703, 6704, 6707, 6710-6714, 6720-6722, 6730, 6737, 7588, 7606, 7610, 7284, 7285, 7156, 7157, 6285, 6286, 6341, 6342, 6355, 6356, 7528, 7533, 7015, 7762

 " of Accusation Required (Const., secs. 6-8).

 " of Pleadings (Civil Code).... 5382, 5383

 " for Justices Peace (Civil Code)4728-4730

FORNICATION (Criminal Code)... 6221

FORT LOUIS DE LA MOBILE..... 807

FORTHCOMING Bonds (Civil Code) 4135-4138

FORTUNE-TELLERS 2361

FRANCHISES, Tax on Foreign Corporations (Const., sec. 232).

 " Tax; Corporations Classified.. 2392 et seq.

 " Tax, Effect on Ad Valorum... 2383

 " Taxes Additional Ad Valorum 2365

 " Tax from Foreign Corporations 2392 et seq.

 " Tax of Common Carriers.. 2364-2390

 " Limited to Streets for Thirty Years (Const., sec. 228).

 " Right of; How Restored (Const., sec. 104).

 " Not Exclusive (Const., sec. 22).

 " Tax in Proportion to Capital Stock (Const., sec. 229).

 " Tax Must be Provided for by General Law (Const., sec. 229).

FRAUDS and Perjurers (Civil Code) 4287-4299

 " (Criminal Code)..6845, 6920-6936, 6938, 6675-6685, 6239, 6240, 6242, 7859, 7860, 7703-7707, 6846, 6848

FRAUDULENT Conveyances (Criminal Code)6935, 7423, 7343

 " Disposition of Property (Criminal Code)6935, 7687-7690

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
FREE Government Founded on Authority of People (Const., sec. 2).	Certificate to Collect Birds..... 677
FREIGHT , Regulated (Const., secs. 243, 245).	Permits to Capture Game..... 678
FREIGHTS (Civil Code)5494 et seq.	License; Contents of 679
“ (Criminal Code)7687-7690	County License 680
FRUIT-TREES (Civil Code) 6037	State License 681
FUGITIVES from Justice (Criminal Code)6939-6953, 6645	Nonresident License 682
FUNDS of Public Schools.....	Probate Judges Issue Licenses.. 683
1678-1688, 1760-1780	Money Received from Licenses.. 684
“ of State, Depositories for..641- 655	Owners, Landlords, and Tenants. 685
“ Trust, Shall Not be Invested in Certain Corporations (Const., sec. 74).	Licenses Printed; Colors 686
FUNERAL Expenses (Civil Code).. 2597	Licenses Delivered and Returned 687
FUTURES , Dealing in (Civil Code). 3349-3353	Fund Created and Disposed of.. 688
GADSDEN Excepted from Rate of Taxation (Const., sec. 216).	GAME and Fish Wardens.....669 et seq.
GAMBLERS (Criminal Code) 7843	“ Laws (Criminal Code)...6954-6982
GAMBLING and Wagering Contracts (Civil Code)3338-3353	GAMING and Lotteries (Criminal Code)6983-7005
“ Municipal Regulation 1291	“ Municipal Regulation 1291
GAME AND FISH DEPARTMENT 656- 688	GARBAGE ; Municipal Regulations. 1282
Established and Commissioner Provided 656	GARNISHMENTS (Civil Code).4300-4336
Salary and Expenses of Commissioner 657	GASES , Accumulation of, in Mines. 1030 et seq.
Office of Commissioner..... 658	GAS Plants1260-1263
Bond and Oath of..... 659	“ Works2361, 2084
Seal of Office..... 660	GATES (Civil Code)5818, 3036
Receipts and Disbursements... 661	GENERAL Assembly900- 923
Accounts, Payment 662	“ Assignment (Civil Code)..... 6054-6109, 4295
Accounts Audited 663	“ Issue (Civil Code)3842, 5331
Biennial Report 664	“ Assembly Changed to Legislature (Const., sec. 44).
Duty to Enforce Laws..... 665	“ Law Defined (Const., sec. 110).
Blanks Provided 666	“ Law Not Suspended (Const., sec. 108).
Publication of Laws 667	“ Law Provided for Protection of Private Interests (Const., sec. 109).
Deputies Serve Process 668	“ Law, Required as to Fees, Compensation, etc., of Officers (Const., sec. 96).
County Wardens 669	“ Law, What Must be Provided for-by (Const., sec. 104).
Duties and Powers of..... 670	“ Welfare (Preamble Const.).
Wardens and Deputies 671	GENEVA County, Part of Taken to Form Houston County (Const., sec. 39).
Bond of Wardens 672	GEOLOGICAL SURVEY689- 697
Ex-Officio Deputy 673	State Geologist 689
Compensation of Wardens..676, 674	His Duties 690
Forest Fires Provided Against.. 675	Assistants 691
	Annual Appropriation 692

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Geological Survey—Continued.	SECTION.
Salary	693
Expenses of Survey	694
Bulletins	695
Printing and Binding	696
Payment for	697
GEOORGIA , Boundary of Alabama...	83
GIFTS (Civil Code)	3392
GIN , Barn, etc. (Civil Code)....	4822-4826
“ Barn (Criminal Code)	6302
GINNERS’ Lien (Civil Code)..	4822-4826
“ Statistics of	113-120
GIRLS (Criminal Code).....	
6211, 7619, 7699-7700	
“ Industrial School	1912-1932
GLANDERS (Criminal Code)	6237
GOATS (Civil Code)	4810
GOLD and Silver, Money of Redemp- tion (Const., sec. 249).	
GOOD Behavior; Term of Office (Const., sec. 29).	
GOVERNMENT Founded on Author- ity of People and for Their Benefit (Const., sec. 2).	
“ Object and End of (Const., sec. 35).	
“ People May Change Form of (Const., sec. 2).	
“ Powers Distributed (Const., secs. 42, 43).	
“ Seat of; How Changed (Const., sec. 78).	
GOVERNOR	550-572
Oath Administered	550
Salary	551
Controls Property of State; Ex- ceptions	552
Duty as to Rooms in Capitol....	553
Negotiates Temporary Loans....	554
Private Secretary	555
Recording Secretary	556
Discontinue Services of Secre- taries	557
Private Secretary	558-560
Messenger to Office	561
Additional Clerks	562
Servants	563
Watchmen	564-566
City of Montgomery; Ordinances to Protect Property	567

	SECTION.
Acts of Congress Obtained.....	568
Bonds Approved by	569
May Employ Counsel	570
Copyright Reports and Statutes.	571
Contingent Funds	572
GOVERNOR , Powers and Duties of (Criminal Code)....	6479, 6491, 6501, 6502, 6510, 6527, 6563, 6569, 6542, 6939, 6645, 6940, 6950, 6951, 7125, 7396-7405, 7510-7515, 7779
Constitutional Provisions.	
“ Appoints Officers of Militia (Const., sec. 276).	
“ Appoints Trustees for Auburn (Const., sec. 266).	
“ Authorized to Adjust Bonded Indebtedness of State (Const., sec. 283).	
“ et al., Executive Officers, Eligi- bility of (Const., secs. 115- 117).	
“ et al., Must Prepare Revenue Bill (Const., sec. 70).	
“ ex Officio Trustee for Auburn and University of Alabama (Const., secs. 264, 266).	
“ Failing to Qualify (Const., sec. 127).	
“ if of Unsound Mind; Proceed- ings as to and Results Thereof (Const., sec. 128).	
“ is Commander-in-Chief of Mili- tary and Volunteer Forces (Const., sec. 131).	
“ May Convene in Special Ses- sion Legislature (Const., sec. 48).	
“ Must Approve Contract for Stationery, Fuel, Printing, etc., for Legislature (Const., sec. 69).	
“ Notice and Proclamation as to Constitutional Amendment (Const., sec. 284).	
“ Office, Succession of (Const., secs. 127, 129).	
“ Office, Compensation of Person Administering (Const., sec. 129).	
“ Powers and Duties of (Const., secs. 120-138).	

SECTION.	SECTION.
GOVERNOR , Powers and Duties; Shall Execute the Law, Require Information in Writing, as to State Institutions (Const., secs. 120, 121).	GRANTS and Commissions Shall be Issued Under the Great Seal of the State (Const., sec. 135).
“ Proclamation of (Const., sec. 122).	“ Shall Remain Subject to Revocation (Const., sec. 22).
“ Proclamation of, Calling Special Session (Const., sec. 76).	GRAVES (Criminal Code)6748-6753
“ Salary; When and How Fixed (Const., sec. 119).	GRAVEYARDS in Towns and Cities 1309, 1310
“ Shall Approve, Disapprove, Sign, or Veto All Bills Passed by the Legislature (Const., secs. 125, 126).	“ Location of86- 97
“ Shall Hold No Other Office During His Term (Const., sec. 130).	“ Municipal Regulations 1284, 1309, 1310
“ Style of (Const., sec. 113).	“ Not Taxed (Const., sec. 91).
“ Supreme Executive Power (Const., sec. 113).	GREAT Seal, Style and Use of (Const., secs. 133-135).
“ Term of Office..... 1461	GROSS Receipts; Taxes; Exceptions 2387
“ Vacancy in Office; Who Performs the Duties Thereof (Const., secs. 127-129).	“ Incomes and Earnings, Tax on 2364 et seq.
“ When and How Elected (Const., sec. 114).	GUARANTEE , Surety, or Bond Companies1507-1524
GRADING Schools 1700	“ (Criminal Code) 7006
GRAIN (Civil Code) 2439	GUARANTY Companies, Making Bonds1507-1524
GRANDCHILDREN (Civil Code)... 3435	GUARD , Alabama National929- 998
GRANDFATHER Clause (Const., sec. 180).	GUARDHOUSES , Municipal Regulations 1287
GRAND Jury (Criminal Code) 6994, 6999, 7282-7306, 7572, 7190	GUARDIAN and Ward (Civil Code) 4337-4481
“ Jury, Necessity of (Const., sec. 8).	GUARDIANS Ad Litem (Civil Code) 4482-4484, 2867
“ Jury; Special Charges as to Bribery (Const., sec. 81).	GUARDIANS , Investment of Trust Funds (Const., sec. 74).
“ Jury; Special Charges as to Corrupt Solicitation of Legislators (Const., sec. 81).	GUARDS (Criminal Code)..... 6642, 6644, 7047
“ Jury; Special Charges as to Free Passes (Const., sec. 244).	GUIDE-BOARDS , Offenses Concerning (Criminal Code) 7395
GRANT (Civil Code) 3421	GUNPOWDER (Criminal Code) 7583
GRANTS BY THE STATE888- 891	HABEAS CORPUS (Criminal Code). 7007-7048
Grants by State Made by Patents 888	“ Not Suspended (Const., sec. 17).
Grants and Patents Recorded... 889	“ Power of Supreme Court to Issue (Const., sec. 140).
Patent Issues on Payment, Certified by Treasurer 890	HABITUAL Drunkard (Civil Code) 4611-4618
Patents for Swamp and Overflowed Lands 891	“ (Criminal Code) ...6770, 6793, 7843
	HAPPINESS , Pursuit of, an Inalienable Right (Const., sec. 1).
	HARBORS (Civil Code)4901-4926

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.

HARD Labor for County (Criminal Code)6580-6592, 6596, 6602-6605, 7462, 7481, 7607
 " Labor for Fines and Cost (Criminal Code)7634, 7635
 " Labor of Convicts (Criminal Code)6479-6607
HAWKERS and Peddlers 2361
HEALTH AND QUARANTINE..698- 792
 County and Municipal Hospitals.. 734, 735
Health Laws and Regulations..698- 733
 Board of Health 698
 Clerk of 699
 County Boards 700
 No Other Boards 701
 Authority, Jurisdiction, and Duties of702, 703
 Health Officer; Election, Duties, and Powers 704
 Report of Board 705
 County Health Officers 706
 Salary of County Health Officer. 707
 Bond of 708
 Assistant 709
 Municipal Health Officers 710
 Reports of Births 711
 Reports of Deaths 712
 Certificate of Death 713
 Report of Contagious Diseases.. 714
 Investigation of Suspicious Cases 715
 Diseases Named, Controlled by Law 716
 Isolation and Detention 717
 Abatement of Nuisances 718
 Removal of Infected Persons... 719
 Officer Enter Infected Houses... 720
 Resistance of Officer..... 721
 Landlords Notify Tenants..... 722
 Inspection of Food 723
 Interment 724
 Transportation of Dead Bodies.. 725
 Location of Cemeteries 726
 Sanitary Regulations 727
 Expenses of Health Officer.... 728
 Repeal Local Law 729
 Records of Marriages 730
 Divorce Records 731
 Conflict, Municipal and Health Laws 732
 Appropriation 733
HEALTH and Quarantine of Municipalities, Additional 1276

SECTION.

HEALTH, Quarantine, and Food, Penal Statutes Concerning (Criminal Code)7049-7083
 " and Quarantine for Municipalities1208-1212
 " Officer of City1208-1212
HEREDITARY Distinction Denied (Const., sec. 29).
HEIRS and Distributees (Civil Code) 3754-3777
HIGH SCHOOLS FOR COUNTIES.. 1861-1868
 Commission to Locate 1861
 Sites Procured; Donations..... 1862
 Controlled by Commission and County Board of Education. 1863
 Free Schools Not Abolished.... 1864
 Teachers and Students..... 1865
 Course of Study 1866
 Matriculation Fee 1867
 When Article Goes Into Effect.. 1868
HIGHWAYS (Civil Code)5765-5843
 " and Streets; Grants of Use or Franchise for Longer than Thirty Years Prohibited (Const., sec. 228).
 " and Streets, Public Utility on; Damages to Abutting Owners (Const., sec. 227).
 " Navigable Waters (Const., sec. 24).
HISTORY AND ARCHIVES....793- 810
 Department of Archives and History Established 793
 Objects and Purposes 794
 Board of Trustees; How Constituted 795
 Powers, Duties, and Authority of Board 796
 Director, Election of 797
 Oath of Director 798
 Duties of Director 799
 Authority of Officials 800
 Books, Records, or Documents, or Copies Thereof 801
 Statistical Register 802
 Data in Reference to Alabama Soldiers 803
 Salary of Director 804
 Appropriation 805
 Printing, Blanks, Circulars, etc.; How Paid 806
 Monument of Fort Louis de la Mobile 807

With References to Volumes II and III, and the Constitution of Alabama, 1901.

History and Archives—Continued. SECTION.	SECTION.
Appropriations as to	808
Appointment of Stenographer ..	809
Publication of State Papers, Official Records, and of Historical Materials	810
HOGS (Criminal Code)	6962
HOLIDAYS (Civil Code)	5144
HOME for Confederate Soldiers. 2038-2053	
HOMESTEAD (Civil Code) ... 4160-4237	
“ Alienation of (Const., sec. 205).	
“ Exempt from Payment of Debt (Const., secs. 205, 206).	
“ Exemptions; Amount and Value (Const., sec. 205).	
HOMICIDE (Criminal Code) .. 7084-7093	
“ Act (Civil Code)	2486
HORSE-RACING , Gaming as to (Criminal Code) ... 7002-7005, 7728	
HORSES (Criminal Code)..... 6237, 6239	
HOSPITALS	838-878, 734
“ for Insane	838-878
“ Municipal	1277
HORTICULTURAL Purposes, Property Used for Not Taxed (Const., sec. 91).	
HORTICULTURE	811-826
State Board of Horticulture; How Formed	811
State Horticulturist	812
Expense Defrayed	813
Treatment of Infested Trees or Plants	814
Cost of Treatment by Owner....	815
Proceedings in Case Orders of State Horticulturist are Disobeyed	816
Authority to Enter Premises....	817
Preventing Introduction of Pests	818
Issuance of Bulletins	819
Certificates for Nursery Stock Necessary	820
Requirements as to Foreign Nurseries and Dealers	821
Liability of Common Carriers... 822	
When Common Carrier Not Liable for Damages	823
Quarterly Report	824
What Commissioner of Agriculture and Industries Must do When Informed of Disease Among Trees	825
Commissioner Requires Owner of diseased Trees to Destroy Them	826
HORTICULTURE , Offenses Concerning (Criminal Code)	6223-6228
HOTELS and Innkeepers (Criminal Code)	7094
“ (Civil Code)	4537-4542
“ Keepers; Lien (Civil Code)..	4827, 4828
HOUSE of Ill Fame	1294
“ (Criminal Code)	7843, 7619
“ of Representatives (Const., secs. 44-111).	
See “Legislature.”	
“ of Representatives, Number of (Const., sec. 198).	
“ of Representatives	900
HOUSES for Schools	1975-1993
“ of Ill Fame; Municipal Regulation	1294
HUNTING (Civil Code)	4485
“ (Criminal Code)	6954-6982
“ License	679 et seq.
HUNTSVILLE Excepted from Rate of Taxation (Const., sec. 216).	
HUSBAND and Wife (Civil Code)..	4486-4504
“ and Wife; Alienation, What Essential (Const., sec. 205).	
“ and Wife; Wife's Separate Estate (Const., sec. 209).	
IBERVILLE , Founder of; Monument 807	
IDIOTS (Civil Code)	4345-4361
“ Disqualified from Voting (Const., sec. 182).	
ILLEGAL Contracts (Civil Code)..	3334-3353
ILLEGITIMATE Children (Criminal Code)	6364-6388
ILL FAME , Houses of	1294
ILLUMINATING OIL ... 1572-1580, 2361	
IMBECILES (Civil Code)	4345-4361
IMMIGRANTS (Criminal Code) ...	6854, 6855
IMMIGRATION	827-837
Board Established	827
Commissioner; Appointment and Term of Office	828
Salary of Commissioner	829
Bond of Commissioner	830
Duties of Commissioner	831
Information to be Furnished Immigration Commissioner ...	832
Duties of Immigration Board...	833

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Immigration—Continued.	SECTION.	IMPROVEMENTS, Bonds for.	SECTION.
Class and Character of Immigrants Bought	834	1408 et seq.	
Appropriations	835	“ of Streets and Sidewalks..	1359-1420
Commissioner Under Control of Board	836	INABILITY of Governor; Who Performs Duties (Const., secs. 127, 128).	
Report of Commissioner to Governor	837	INALIENABLE Rights, Secured and Enumerated (Const., sec. 1).	
IMMIGRATION (Criminal Code) ..	7098	INCENDIARY (Criminal Code)....	6295-6300
“ Encouraged (Const., sec. 30).		INCEST and Marriage; When Unlawful (Civil Code)	4877
IMMUNITIES from Arrest (Const., secs. 56, 192, 275).		“ (Criminal Code)	7127, 7128
“ Grants, Franchises, and Privileges Shall Not be Exclusive (Const., sec. 22).		INCOMPETENCY of Judge to Try Case; Mode of Selecting One (Const., sec. 160).	
IMPAIRING Obligations Denied (Const., secs. 22, 95).		INCONSISTENT Laws Prohibited (Const., sec. 89).	
IMPARTIAL Jury, Right to Trial by (Const., sec. 6).		INCORPORATING City or Town (Const., sec. 104).	
IMPEACHMENT of Officers (Criminal Code)	7099-7126	INCORPORATION Municipalities ..	1053-1069
“ of Municipal Officers	1172-1191	INCORPORATIONS , Business. (Civil Code)	3445-3661
“ (Const., secs. 173, 176).		INDEBTEDNESS , Bonded, of Municipalities	1436-1438
“ of Clerks, Tax Collectors, Tax Assessors, Judges of Inferior Courts, Justices of the Peace, Notaries, Constables (Const., sec. 175).		“ of County Limited	155
“ of Governor (Const., sec. 173).		“ of Corporations; How Increased (Const., sec. 234).	
“ of Judges, Solicitors, Chancellors, Sheriffs (Const., sec. 174).		“ of Municipalities, Limit of...	1430
“ Grounds of (Const., sec. 173).		INDEMNITY Companies; Making Bonds	1507-1524
“ Penalties and Punishment of (Const., sec. 176).		“ Fund (Civil Code)	4563
IMPOST as to Wharfage (Const., sec. 24).		INDEPENDENCE , Declaration of (pp. 3-6).	
IMPOUNDING Animals (Criminal Code)	7337	INDEX Constitution of Alabama, 1875-1901 (See Preliminary Part of Criminal Code).	
“ Animals; Municipal Regulations	1825	INDEXES , Provisions as to...	5421, 3081, 3272
IMPRISONMENT for Debt (Const., sec. 20).		“ Constitution United States, pp. 174-216.	
“ for Contempt (Civil Code)....	4630	INDIOTMENTS (Criminal Code)...	7129-7161
“ in County Jail (Criminal Code)	7191-7211	“ as Process (Const., sec. 8).	
“ of Convicts (Criminal Code)..	6479-6607	“ Necessity of (Const., sec. 8).	
IMPROVEMENT , Internal; State Shall Not Engage in (Const., secs. 93, 94).		“ Pending Not Affected by Ratification of Constitution, Schedule 2.	
		INDUSTRIAL School and Reformatory	1954-1970
		“ School for Girls.....	1912-1932

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
INDUSTRIES and Agriculture...14- 79	Steward; Appointment and Duties of 850
" Commissioner of; How Elected (Const., secs. 112-114).	Treasurer; Election and Duties of 851
INEBRIATES , Estates of (Civil Code)4611-4618	Furlough of Patients Granted.. 852
INFANCY , Plea of (Civil Code).... 5383	Institution Used Solely for Insane Patients 853
INFANTS (Civil Code) 4505-4511, 2476, 5383	Insanity Defined, Which Renders Person Eligible as Patient.. 854
INFANTRY (Const., sec. 274).	Superintendent; When May Decline to Receive or Exchange Patients 855
INFECTIOUS Diseases 716	Certificate of Probate Judge Committing Patient Necessary 856
INFERIOR Courts, Established by General Assembly (Const., sec. 139).	Application for Admission..... 857
" Judges of, Elected or Appointed (Const., sec. 153).	Reply to Application..... 858
INFORMATION , as Process (Const., sec. 8).	Certificate; Form and Contents of 859
INFORMATIONS (Criminal Code).. 7129-7161	Conveying Patient to Hospital.. 860
INHABITANTS of Municipality, Exempt From Road Duty.... 1336	Expenses of Patient, When Paid by Himself and When Paid by the State..... 861
INHERENT Power of People (Const., sec. 2).	Bonds for Payment of Expenses 862
INHERITANCE Tax (Const., sec. 219).	Financial Standing of Patients. 863
INJUNCTIONS (Civil Code)...4512-4536	New Bond; Expenses of Patient. 864
INKEEPERS (Civil Code)...4537-4542	Indigent and Paying Patients; Transfer of 865
INQUESTS 104	Funds of Patients; How Expended by Superintendent.. 866
" (Criminal Code)7162-7174a	Return of Patients Home; Expenses of Same..... 867
INQUISITION as to Insanity (Civil Code) 4347	Patients, When Removed on Furlough 868
" (Criminal Code)7178-7183	Probate Judge of Tuscaloosa County May Issue Certificate in Certain Cases..... 869
INSANE HOSPITALS838- 882	Justice of the Peace; When May Issue Certificates to Patients at Mount Vernon..... 870
Swamp and Overflowed Lands.879- 882	Convicts, When Insane; How Committed 871
Bryce Hospital and Mount Vernon Named 838	Criminals; When and How Committed to Hospital..... 872
A Body Corporate; Powers of; How Sued 839	Insane Convicts; Report of Recovery 873
Trustees; Terms of Office 840	Officers and Employes Exempt From Military, Public Road, and Jury Duty 874
Successors; Vacancy; How Filled 841	Superintendent and Physicians Exempt From Attending Court as Witnesses 875
Compensation of 842	Police; Appointment and Duties of, for Insane Hospital.... 876
Election Confirmed by Senate.. 843.	
Time and Place of Annual Meeting; Report to Governor.... 844	
Elect President and Adopt Rules 845	
Special or Call Meeting of.... 846	
Superintendent; Election and Salary of; Term of Office.. 847	
Appoints Assistants and Employes 848	
Salaries of Assistants or Employes 849	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
Insane Hospitals—Continued.	
Public Roads or Highways Es- tablished Through Land....	877
Appropriation for Institution...	878
INSANE Person Ineligible to Public Office (Const., sec. 182).	
“ Paupers	1610
INSANITY as a Defense for Crime (Criminal Code)	7175-7183
“ Vacates Office	1560
INSOLVENCY of Banks; Preferred Creditors (Const., sec. 250).	
INSOLVENT Corporations (Civil Code)	3509
“ Estates (Civil Code).....	2755-2796
INSOLVENTS , Taxes	2188 et seq.
INSPECTION of Foods, Municipal Regulation	1295
“ or Measurement of Merchan- dise (Const., sec. 77).	
INSPECTORS of Almshouses, Jails, etc. (Criminal Code)....	7212-7222
“ of Election	347- 445
“ of Mines	999-1038
INSTALLATION	1461
INSTITUTE for the Deaf, Dumb, and Blind	1933-1953
INSTITUTES , Farmers	70- 72
“ for Teachers	1751-1754
INSULTING Language (Criminal Code)	6217
INSURANCE (Criminal Code) .	7184-7190
“ Companies (Civil Code).....	3562, 3563, 4543-4610
INSURED House or Property (Crim- inal Code)	6300, 6929, 6930
INSURRECTION and Invasion; Debt Created to Repel (Const., sec. 213).	
“ and Invasion Repelled (Const., sec. 131).	
INSURRECTIONS (Criminal Code). 7721-7726, 7400, 7401	
“ Provide Against (Const., sec. 122).	
INTEMPERATE Persons (Civil Code)	4611-4618
“ Persons; Protection of Estate (Civil Code)	4611-4618
INTENDANTS , Impeachment of (Const., sec. 175).	
INTEREST and Usury	626- 630
“ (Civil Code) ..	4619-4625, 5904-5945
INTEREST , Rate of (Const., sec. 104).	
“ Rate of as to Banks (Const., sec. 252).	
INTERNAL Improvement; State Shall Not Engage in (Const., secs. 93, 94).	
INTERPLEADER at Law (Civil Code)	6039-6053
INTERPRETERS (Civil Code).....	4010
INTERROGATORIES to Parties (Civil Code)	4049-4057
INTERSTATE Business; Tax Value.	2373
INTOXICATING Liquors at Election (Const., sec. 191).	
“ Liquors, License to Sell (Civil Code)	5760-5764
“ Liquors, Offenses Concerning (Criminal Code)	7352-7382
“ Liquors, Sale by Dispensaries 228- 289	
“ Liquors Not Sold on Election Day	299
INVASION and Insurrection, Debt Created to Repel (Const., sec. 213).	
“ and Insurrection, Repelled (Const., sec. 131).	
INVENTORY (Civil Code)..... 2579-2584, 4174, 4178	
INVOLUNTARY Servitude, only as Punishment for Crime (Const., sec. 32).	
IRREVOCABLE Grants Prohibited (Const., sec. 22).	
ISSUE (Civil Code))	5199, 3807, 3399
ITINERANT Ministers (Civil Code) 3593-3596	
“ Venders	2361
JACKS (Civil Code).4810-4813, 3955, 3956	
JAIL	128- 145
“ (Criminal Code)	7191-7311
JAILS , Almshouses, Cotton Mills, or Factories; Inspection of (Crim- inal Code)	7212-7222
“ and Jailers	134- 144
“ Building and Care of.....	133- 145
“ Municipal Regulations	1287
JENNY-LIND Table	2361
JEOPARDY , Twice for Same Offense Prohibited (Const., sec. 9).	
JETSAM and Flotsam (Civil Code) 5844-5857	

SECTION.	SECTION.
JOHNSON-GRASS Seed; Sale of in Oats (Criminal Code) 7223	JUDGES , Failure to Attend Regular Terms of Court (Const., sec. 161).
JOINER of Actions (Civil Code).. 5328, 5329, 4738, 4787	“ Incompetent to Try Case; Mode of Selecting Attorney to Try It (Const., sec. 160).
JOINT Tenancy (Civil Code)...5203-5231	“ of City Court Cannot Practice Law (Const., sec. 162).
JOURNALS and Acts; Printing of Provided for1647-1677	“ of Courts of Record; Eligibil- ity and Qualification of (Const., sec. 154).
JOURNAL Must Contain Names of Members Voting on Each Bill (Const., sec. 63).	“ of Courts of Record; Impeach- ment of (Const., sec. 174).
“ Must Show Bills Were Publicly Read and Signed (Const., sec. 66).	“ of Court of Record; Salary of (Const., sec. 150).
“ Must Show Bills Were Re- ferred (Const., sec. 62).	“ of Courts of Record Shall Not Practice Law (Const., sec. 162).
“ Must Show Notice for Local Law Was Given (Const., sec. 106).	“ of Courts of Record; Terms of Office (Const., sec. 155).
“ of Legislature (Const., sec. 55).	“ of Courts of Record; Vacancies in Office; How Filled (Const., sec. 158).
“ Protest of Members Spread Upon (Const., sec. 55).	“ of Courts of Record; When and How Elected (Const., sec. 152).
“ Votes Recorded Therein (Const., sec. 64).	“ of Inferior Courts, Elected or Appointed (Const., sec. 153).
“ “Yea and Nay” Vote Entered on (Const., sec. 55).	“ of Supreme Court; Number of (Const., sec. 151).
JUDGE Advocate.....930, 934, 979	“ of Supreme Court; Time of Election (Const., sec. 156).
“ Advocate General 930, 931	JUDGMENT and Sentence in Crim- inal Cases (Criminal Code) 7316, 7620-7654
“ of City Court..... 336	“ Arrested (Criminal Code).7159, 7160
“ of City Court (Civil Code)... 3296	JUDGMENTS and Decrees (Civil Code)..2819-2822, 4139 et seq. 4077 et seq.
“ of County Court.....1535-1548	“ and Executions (Civil Code).. 4077-4159
“ of County Court (Criminal Code 6696-6732	“ Recording and Registration (Civil Code)4156-4159
“ of Probate ...1535-1548, 541 et seq.	“ Summary (Civil Code) ...5899-5947
“ of Probate (Civil Code)..5410-5442	JUDICIAL Circuits (Const., secs. 142-144).
JUDGES (Civil Code).3066-3069, 3267, 3268, 5953, 5439, 5440	“ Circuits (Civil Code)3229-3278
“ Circuit (Civil Code).....3255-3268	“ Department (Civil Code).... 3229-3278, 3042-3085, 5949-6005
“ Competency of (Civil Code) 4626-4628	“ Department (Const., secs. 139- 172).
“ of Probate; Duties as to Taxes 2146-2159	
“ of Supreme Court; When Elect- ed 335	
“ Supreme (Civil Code) ...5948-5967	
Constitutional Provisions.	
“ Circuit; Eligibility and Qualifi- cation of (Const., sec. 142).	
“ Circuit; Impeachment of (Const., sec. 174).	
“ for New Circuit or Chancery Divisions (Const., sec. 159).	
“ Conservators of Peace (Const., sec. 157).	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
JUDICIAL Divisions, Circuits, and Chancery Divisions (Civil Code)3229-3275	JURY Trial, Inviolable (Const., sec. 11).
“ Officer, Bribery of (Const., sec. 80).	“ Trial, right of (Const., sec. 6).
“ Officers, Defined1461-1466	JUST Compensation (Const., sec. 23).
“ Officers, Terms of.....1461-1466	JUSTICE Administered Without Sale or Denial (Const., sec. 13).
“ Power of Courts and Judges (Civil Code)4629-4632	“ of the Peace.....1469-1471
“ Powers (Const., sec. 42).	“ of the Peace (Civil Code).4637-4730
“ Powers; Where Vested, De- nominated, and Defined (Const., sec. 139).	“ of the Peace (Criminal Code) 6733-6744, 7584-7615
“ Sales, Taxes Reserved..... 2356	“ of the Peace, Appeal From (Const., sec. 168).
JUDICIARY , Article on Shall Not Abridge Term of Office of Any Officer (Const., sec. 172).	“ of the Peace, Criminal Process of (Const., sec. 8).
JURISDICTION2427, 2428	“ of the Peace, Impeachment of (Const., sec. 174).
“ (Civil Code) .3052, 3255, 3296, 3312	“ of the Peace, Jurisdiction; How Changed (Const., sec. 104).
“ Criminal Code).....	JUSTICES of Supreme Court (Civil Code)5948-5967
6692, 6694, 6695, 6700, 6733	“ of the Supreme Court (Const., secs. 154, 157, 158).
“ Chancery Court (Const., sec. 145).	“ of Supreme Court, Election; Mode of (Const., sec. 156).
“ Circuit Court (Const., sec. 143).	“ of Supreme Court, Impeach- ment of (Const., sec. 173).
“ Consolidation of Circuit and Chancery Court (Const., sec. 148).	“ Supreme Court; When Elected 335
“ Justice of the Peace (Const., sec. 168).	JUVENILE Delinquents (Criminal Code)6450-6465
“ of Justice of the Peace; How Extended or Changed (Const., sec. 104).	KEGS (Criminal Code).....7318-7321
“ of Criminal Cases (Criminal Code)6692-6745	KEEPER of Capitol.....558- 560
“ of Persons and Offenses (Crim- inal Code)7224-7232	KEEPING Estates Together (Civil Code)2743-2754
“ of Supreme Court (Const., sec. 140).	KEBOSENE Oil; Regulations...1572-1580
JURORS and Juries (Civil Code)... 4633-4636, 4584 et seq., 5359-5365	KIDNAPPING (Criminal Code)... 6213
“ and Juries (Criminal Code).. 7233-7317	KINDRED (Civil Code) 3757
“ Special Charges (Criminal Code) 7286	KNIGHTS of Pythias (Civil Code).. 4562, 3571
JURY Commissioners (Criminal Code)7233-7238, 7478-7480	LABELS , Stamps, Marks, or Brands of Goods, Wares, or Merchan- dise (Criminal Code)...7318-7323
“ Discharged; Effect of (Const., sec. 9).	LABORATORY for Cement..... 1893
“ Duty; How Person Exempt (Const., sec. 104).	LABORERS (Civil Code)..... 3910-3912, 4794-4805
“ May Determine Law and Evi- dence in Libel Suits (Const., sec. 12).	“ (Criminal Code) ...6850, 6851, 6856
“ Trial in Chancery (Civil Code) 3201-3205	LABORERS’ Lien (Civil Code).4794-4805
	“ Lien (Const., secs. 204-210).

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
LAGER Beer	2361
LAMPS Used in Mines.....	1022
LAND Agent	892- 897
LANDLORD and Tenant (Civil Code)	3844, 4731-4753
LANDS Ceded by State to United States	898, 899
" Conveyed by State.....	888- 891
" for School Purposes (Const., secs. 257, 258).	
" How Donated (Const., sec. 104).	
" of State Shall Not be Donated to Private Corporations (Const., sec. 99).	
" of Municipality, Care of.....	1288
" of Schools	1781 et seq.
LANDS OF THE STATE	883- 899
Salt Springs.....	883- 887
Grants by the State.....	888- 891
Land Agent	892- 897
Lands Ceded by State to United States	898, 899
LAND AGENT	892- 897
Employed	892
Compensation of	893
Reports of	894
Power of	895
Expenses Allowed and Paid....	896
Expenses to be Refunded.....	897
Lands Ceded by State to United States	898, 899
LANDS Overflowed	879- 882
" Patented by the State....	888- 891
" Quieting Title (Civil Code)... ..	5443-5448
" Sixteenth Sections (Const., sec. 260).	
" Sold for Taxes.....	2268-2312
LAND Warrants (Civil Code).....	2606
LANGUAGE , Abusive or Insulting (Criminal Code)	6217
LARCENY and Like Offenses (Criminal Code)	7324-7337
LAW and Fact Determined by Jury in Libel Suits (Const., sec. 12).	
" Department at University; Books for	1883, 1884
LAWMAKING Power is the Legislature (Const., sec. 44).	
" Powers	900- 928
LAWS	586
" (Civil Code)	2660 et seq.
LAW , Codifying, Digesting, and Revising Required (Const., sec. 85).	
" How Passed (Const., sec. 61).	
" Inconsistent, Not Allowed (Const., sec. 89).	
" Not Inconsistent with Constitution, Not Repealed, Schedule 1.	
" Not Suspended (Const., sec. 108).	
" of County Codified	156
" Promulgation of (Const., sec. 85).	
" Suspension of (Const., sec. 21).	
" When Take Effect (Criminal Code)	7805
LAWYERS , License and Examination of (Civil Code)	2972-3011
" Lien for Fees (Civil Code).. ..	3010, 3011
LEASE	1781 et seq.
" (Civil Code)	3418, 4756
LEASEHOLD Estate (Civil Code)..	3418
LEASES of Land (Civil Code)..	4731-4753
LEGACIES (Civil Code).....	2710-2723, 6159-6162
" Payment of (Civil Code)..	2736-2742
LEGAL Holidays (Civil Code).....	5144
LEGERDEMAIN	2361
LEGISLATIVE Department (Const., secs. 44-102).	
" Powers (Const., secs. 42-44).	
LEGISLATORS and Senators Apportioned Among the Several Counties (Const., secs. 199-203).	
" and Senators, Number of (Const., secs. 197, 198).	
" Bribery of, Defined and Punished (Const., sec. 79).	
" Compensation of	914
" Eligibility of (Const., sec. 60).	
" Number of (Const., sec. 50).	
" Number of	900- 901
" Pay of (Const., sec. 49).	
" Privileged from Arrest (Const., sec. 56).	
" Qualification, Election, and Terms of Office (Const., secs. 46, 47).	
" Shall Disclose Personal Interest in Bill (Const., sec. 82).	

	SECTION.
LEGISLATORS Shall Not Hold Offices Created by Them, or the Emoluments of Which Are Increased, Unless Elected There-to (Const., sec. 59).	
“ Vacancy in Office; How Filled (Const., sec. 46).	
LEGISLATURE	900- 928
House of Representatives.....	900
Senatorial Districts	901
Quadrennial Sessions and Place of Meeting	902
Length of Sessions.....	903
Time of Meeting.....	904
Election by	905
Committee to Examine Offices of Auditor and Treasurer..	906
Duty of Examining Committee.	907
Report	908
Papers of Legislature; Deposit of Engrossed Copies of Laws, etc...	909
Papers and Documents; Filed and Arranged	911
Secretary of State to Receipt for Papers	912
Oath of Office; by Whom Administered	913
Pay and Mileage	914
Pay in Cases of Sickness.....	915
Pay of Committees.....	916
Mileage When Intervals Not More Than Four Days	917
Amount of Pay Due; How Certified	918
Oaths to Subordinate Officers...	919
Subordinate Officers; Election, Term of Office, and Removal	920
Compensation of Secretary and Clerk and Assistants.....	921
Compensation of Enrolling and Engrossing Clerks, Doorkeepers, and Assistants; Sergeants-at-Arms	922
Subordinate Employes of the Legislature	923
Appointment and Election of Subordinate Employes of Legislature	924
Terms of Employment of Subordinate Employes of Legislature	925
Compensation of	926
Pay of Subordinate Officers....	927

	SECTION.
Secretary of State and Clerk of House to File Papers and Furnish Copy of Journal... 928	
LEGISLATURE , Printing for, Done. 1647-1677	
“ Quadrennial Sessions	902
“ Subordinate Officers of.....	924
“ Clerks of	924 et seq.
“ Time of Meeting.....	904
“ Constitutional Provisions, Constitution 1901, secs. 44-111. (See, also, Index to Constitution, Preliminary Part of Criminal Code).	
“ Cannot Authorize Lotteries (Const., sec. 65).	
“ Election by Shall be Viva Voce (Const., sec. 83).	
“ Expulsion of Members (Const., secs. 53, 54).	
“ How It Obtains Printing, Stationery, Fuel, etc., by Contract to Lowest Bidder (Const., sec. 69).	
“ Information Given to by Governor (Const., sec. 123).	
“ Journal of (Const., sec. 55).	
“ May Propose Amendments to Constitution (Const., sec. 284).	
“ May Suspend Laws (Const., sec. 21).	
“ Member of Privileged From Arrest (Const., sec. 56).	
“ Must Enact Laws to Give Effect to Each Provision of the Constitution (Const., sec. 282).	
“ Must Prescribe Duties and Pay of Its Officers (Const., sec. 67).	
“ Privilege of Floor (Const., sec. 57).	
“ Quorum of (Const., sec. 52).	
“ Rules of (Const., sec. 53).	
“ Sessions of; General and Special (Const., sec. 48).	
“ Sessions; Public and Private (Const., sec. 57).	
“ Shall Not Increase Fees and Compensation of Agents, Servants, etc. (Const., sec. 68).	

SECTION.	SECTION.
LEGISLATURE , Special Sessions;	LIEN of Official Bonds..... 1491
Calling and Duration of	" of Taxes2074-2093
(Const., sec. 76).	" of Attorneys for Fees (Civil
" Special Session; for What Pur-	Code) 3010, 3011
pose Called (Const., sec.	" of Landlord (Civil Code).4734-4752
122).	LIENS (Civil Code)4754-4829
" to Pass Laws Suppressing	" and Executions, Frauds as to
Dueling (Const., sec. 86).	(Criminal Code)
" Vote as to Amendment of Con-	7342, 7343, 7423, 7821
stitution (Const., sec. 287).	" How Modified (Const., sec.
" When and How Adjourns	104).
(Const., sec. 58).	" Not Affected by Levy and Sale
LEGITIMATING Children (Civil	(Const., sec. 205).
Code)5199-5201	" Protected (Const., secs. 204-
LETTERS , Threatening (Criminal	210).
Code) 6218	LIEUTENANT-GOVERNOR , Term
LEVYING on County Property	of Office 1461
(Criminal Code) 6691	" When Elected 331
LEVY of Attachment (Civil Code).	" Compensation of (Const., sec.
2940-2954	118).
" of Execution (Civil Code).4097-4134	" Ex-Officio President of the Sen-
LIBEL and Defamation (Criminal	ate; Powers and Duties of
Code)7338-7341	(Const., secs. 117, 51).
" and Slander (Civil Code).3745-3753	" Powers and Duties of; When
LIBEL , Trial of; Evidence, Effect	and How He May Become
of; Jury May Determine Law	Governor (Const., secs. 127-
and Evidence of (Const., sec.	129).
12).	" When and How Elected
LIBERTY , an Inalienable Right	(Const., secs. 114-116).
(Const., sec. 1).	LIFE Insurance Companies (Civil
" of Press (Const., sec. 4).	Code)4543-4596
" of Speech Shall Not be Cur-	" Insurance, Mutual (Civil Code)
tailed or Restrained (Const.,	4597-4605
sec. 4).	" Not Twice in Jeopardy (Const.,
LIBRARIAN of Supreme Court	sec. 9).
(Civil Code)5971-5982	" and Liberty, an Inalienable
LIABILITY of Municipality for	Right (Const., sec. 1).
Negligence 1273	" Not Taken Except by "Due
LIBRARIES , Municipal 1358	Process of Law" (Const.,
LICENSES (Civil Code)2973 et seq.	sec. 6).
LICENSE of Foreign Corporations...	LIGHTHOUSE2427, 2428
2401-2412	LIGHTNING Rod Company..... 2361
" Carrying on Business..... 2361	LIMB , Not Twice in Jeopardy
" for Hunting679 et seq.	(Const., sec. 9).
" to Practice Medicine....1626-1646	LIMITATIONS of Actions (Civil
" Tax2361, 2362	Code)4830-4863
" Tax; Municipalities1338-1347	" of Prosecutions (Criminal
" Tax by Municipal Corporations	Code)7344-7351
(Const., sec. 221).	" of Actions (Const., sec. 104).
" Tax for Corporation; How	LIMITED Partnership (Civil Code)
Provided for; Rate of	5265-5289
(Const., sec. 229).	LIMIT of Municipal Indebtedness.. 1430
" Tax on Foreign Corporations	LIMITS of City or Town Extended
(Const., sec. 232).	1075-1125
" to Teach School.....1719-1750	" of Municipalities1070-1125

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.
LINERS Between Counties or Precincts	297
LIQUORS	492-511, 2361
" (Civil Code)	5760-5764
" (Criminal Code)	7352-7382
" License to Sell (Civil Code)...	5760-5764
" Sales in Dispensaries.....	228- 289
" Intoxicating, at Elections (Const., sec. 191).	
" Laws; How Enacted (Const., sec. 104).	
" Not Sold on Election Day....	299
LITERATURE , Obscene (Criminal Code)	7427-7429
LIVERY of Seizin (Civil Code)....	3364
" Stable Keeper's Lien (Civil Code)	4806, 4807
LIVE Stock and Fences (Civil Code)	4240-4259
" Stock Insurance (Civil Code)	4606-4610
" Stock, Offenses Concerning (Criminal Code)	6230-6242
" Stock Running at Large (Civil Code)	3927-3957
" Stock Sanitary Board (Criminal Code)	7083
LIVE STOCK SANITARY BOARD	757- 770
Established	757
Powers	758
Veterinarian and Assistants....	759
Stalls or Lots; Establishing....	760
Transportation of Stock.....	761
Stock Brought Into State.....	762
Cleaning and Disinfecting.....	763
Enter Premises to Execute Laws	764
Cattle Ticks	765
Federal Veterinarians	766
Appropriations	767
Grand Juries, Charge to.....	768
Report to Governor.....	769
Counties Exempt	770
LOAN Companies (Civil Code).3597-3612	
LOANS (Civil Code).3301-3305, 3389-3391	
LOBBYING (Criminal Code) ..7386, 7387	
" State and County Officers Prohibited (Const., sec. 101).	
LOCAL Improvements, Municipal... ..	1359-1420
" Improvements of Streets and Sidewalks	1359-1420

	SECTION.
LOCAL Jurisdiction of Offenses (Criminal Code)	7224-7232
" Laws Cannot be Repealed or Revised, Except Upon Notice (Const., sec. 107).	
" Law Cannot Fix License or Privilege Tax (Const., sec. 229).	
" Law Defined (Const., sec. 110).	
" Laws, Notice Necessary (Const., sec. 106).	
" Laws Prohibited (Const., sec. 104).	
" Laws Shall Not be Created by Repeal of Part of General Law (Const., sec. 105).	
" Laws Void Unless Journal Shows Notice Was Given (Const., sec. 106).	
" Laws; What Cannot be Provided for by (Const., sec. 104).	
" Option Dispensary Law...228- 243	
LOCAL OPTION PROHIBITION	
LAW	492- 511
Petition or Call Orders Election	492
Notice, Publication of.....	493
Managers and Officers of Election	494
Sheriff Notifies Officers.....	495
Ballots; Instructions and Stationery	496
Ballots, Form and Contents of..	497
Results; Ascertaining and Returning	498
Canvassing; Declaring Result; Publication of	499
Held Under General Election Law; Exception	500
Officer Failing to Perform Duty.	501
Qualification of Voters.....	502
Times of Election.....	503
Affecting Dispensaries	504
Time of Second Election.....	505
Contest of	506
Effect of Election.....	507
Dispositions of Intoxicants Covered by Article.....	508
Laws Not Repealed.....	509
Sacramental Purposes Exempt..	510
Intoxicants Defined	511

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.		SECTION.
LOCOMOTIVE Engineer (Civil Code)	5473 et seq.	MARKETS , Municipal	1279
LOGS (Criminal Code).....	7865-7869, 7331, 7332	MARKET House; Butchers; Offense (Criminal Code)	6419
LOST Notes, Bills, etc. (Civil Code)	2491, 2492	MARKS and Brands (Civil Code)..	4873-4876
" Records or Papers (Civil Code)	5739-5745	" (Criminal Code)	6240, 6675
LOTTERIES , Forbidden (Const., sec. 65).		MARRIAGE (Civil Code).4877-4891, 2498	
LOTTERY	2361	" (Criminal Code)..7127, 7128, 6210, 6211, 7390-7393, 7421, 7422	
" (Criminal Code)	6994-7001	" Between Whites and Negroes Prohibited (Const., sec. 102).	
LOTS (Civil Code).....	4163, 6028-6034	" Settlements (Civil Code)....	3388
LUNATICS (Civil Code).....	4345-4361	MARRIAGES , Births, and Deaths (Civil Code)	3978
" Disqualified from Voting or Holding Office (Const., sec. 182).		" Record of Furnished Health Officer	730
LYNCHING and Whitecapping (Criminal Code)	7388, 7389	MARRIED Women (Civil Code).4486-4504	
		" Woman's Acknowledgment of Homestead (Const., sec. 205).	
MAD Dog (Criminal Code).....	6235	" Woman's Estate (Const., sec. 209).	
MAGAZINE	2413, 2427, 1453	MARSHAL of Supreme Court (Civil Code)	5971-5982
MAGISTRATE	4	" (Criminal Code).....	4562, 3571
" See "Justices" and "Judges."		MASTER and Apprentice (Civil Code)	2896-2907
MAJORITY	4	" and Servant (Civil Code).3910-3913	
" of Each House a Quorum (Const., sec. 52).		" and Servant (Criminal Code).	6845-6857
MALE	1	" in Chancery (Civil Code)	3070-3086, 6054 et seq.
MALT Liquors	2361	MATERIALMAN'S Lien (Civil Code)	4754-4784
MALTREATMENT of Convict or Prisoner (Criminal Code).....	6608, 6609, 6619	MAXIMUM Rates (Railroads) (Civil Code)	5565-5592
MANDAMUS , Power of Supreme Court to Issue (Const., sec. 140).		MAYHEM (Criminal Code).....	7394
" Prohibition, Certiorari, and Other Remedial Writs of a Supervisory Nature (Civil Code)	4864-4872	MAYOR Closes Places in Time of Riot	1454
MANSLAUGHTER (Criminal Code)	7090-7093	" Ex Officio Recorder.....	1223
		" of Municipalities	1172-1191
MAPS and Plats of County.....	157	" or Recorders' Courts....	1213-1229
" Plats, or Surveys of Towns (Civil Code)	6028-6034	" Salary of	1456
MARINE Insurance Companies (Civil Code)	3481, 4589-4593	MAYORS , When Elected	1063
MARINES	295, 1469	" Courts	1213-1229
" (Civil Code)	6178	" Impeachment of (Const., sec. 175).	
MARK	1	MEAL , Cottonseed	49, 50
" (Civil Code)	3355	" Sale of Regulated	2439
MARKERS	252, 369	" (Criminal Code)	6620-6623
		MEASURES	2429-2439
		" (Criminal Code)	7507, 7873
		" of Merchandise (Const., sec. 77).	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.
MECHANICS' Lien (Civil Code)...	4754-4783
" Lien (Const., sec. 207).	
MEDICAL Association	698 et seq.
" Board	698 et seq.
" College, Mobile	1889
MEDICINE and Surgery (Criminal Code)	7564
" Examinations to Practice.	1626-1646
" License to Practice	1626-1646
" Sale of Regulated.....	1618-1625
MEETING of Legislature (Const., sec. 48).	
MEMBERS, Attendance Compelled and Punished (Const., secs. 52, 53).	
" of Legislature, Bribery of (Const., sec. 79).	
" of Legislature, Number of (Const., sec. 50).	
" of Legislature Shall Disclose Personal Interest in Bills (Const., sec. 82).	
" Pay of (Const., sec. 49).	
MEN, All Free and Independent (Const., sec. 1).	
MENAGERIE	2361
MENNONISTS (Civil Code).....	4833
MERCANTILE Agency	2361
MERCHANDISE, Inspection of (Const., sec. 77).	
MERGED Municipalities, Laws Governing	1156-1163
MERGER; Corporations (Civil Code)	3502-3508
MERGING Municipalities	1126-1132, 1156-1163
MERRY-GO-ROUNDS	2361
MESSAGE of Governor to the Legislature (Const., sec. 123).	
MIDWIFE (Criminal Code).....	7050, 7051
MILEAGE Books, Interchangeable (Civil Code)	5593-5597
" and Pay of Legislators (Const., sec. 49).	
" of Legislators	914 et seq.
MILEPOST, Guideboard, etc. (Criminal Code)	7395
MILITARY	929- 998
" Offenses Concerning (Criminal Code)	7396-7417

	SECTION.
MILITARY Shall be in Subordination to Civil Law (Const., sec. 27).	
" System at University May be Abolished (Const., sec. 265).	
MILITIA (Const., secs. 271-278).	
MILITIA	929- 998
Governor Commander-in-Chief ..	929
Staff of	930
Adjutant-General	931
Assistant Adjutant-General	934
Duties of Staff Officers	935
Regiment Infantry, Cavalry, or Artillery	936
Field Officers	937
Officers, Commissioned and Non-Commissioned	938
Squadron or Battalion	939
Officers Appointed by Major....	940
Duty of Senior Officer	941
Line Officers	942
Additional Officers	943
Non-Commissioned Troop or Battery	944
Number in Company	945
Company, How Organized	946
Company, Assignment	947
Liability of Officer for Property.	948
Commutation of Expenses	949
Expenses of Companies	950
Drills	951
Dress Parade, and Fine	952
Veteran's Badge	953
Leaving County or State	954
Musicians; Band Secured	955
Election of Officers	956
Vacancies; How Filled	957
Notice of Election of Officers ..	958
Certificate of Election	959
Resignation of Officer	960
Transfer of Officer	961
Rules	962
Discharges; How Made	963
Term of Enlistment	964
Discipline Prescribed	965
Disbanded	966
Uniform	967
Arms and Equipments	968
Repository	969
Clerk of Adjutant-General.....	970
Officers; How Commissioned....	971
Officers; Reduction to Ranks ..	972
Discharge of	973
Military Offenses	974
Offenses of Officers	975

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Militia—Continued.	SECTION.	SECTION.	
Officers' Delinquencies	976	Appropriation	1005
Triable Offenses	977	Board of Examination	1006
Delinquencies	978	Qualifications of Applicants....	1007
Military Courts, Courts Martial.	979	Standard Scales for Weighing	
Findings of	980	Coal	1008
Expenses and Costs	981	Full Weight Credited to Miner..	1009
Medical Supplies	983	Check Weighman	1010
Poll Tax and Jury Duty	984	Standards, Balances, Adjusting	
Pay of, When in Service	985	Scales	1011
Guardhouse	986	Inspect Scales, Record of	
Sale of Liquors Prohibited.....	987	Weights	1012
Close Up Liquor Houses	988	Foreman; Examination and Cer-	
Annual Encampment	989	tificates	1013
Deserters	990	Employing Twenty or Less Men.	1014
Articles of War	991	Annual Report	1015
Failure to Attend Encampment..	992	Ventilation of Mines	1016
Brigade; Formation of	993	Duty of Mine Inspector	1017
Powers of Brigadier-General ...	994	Testing Air	1018
Payment of Brigade Staff	995	Stretchers, Blankets, etc.	1019
Military Board; Its Duties	996	Breaks Through	1020
When Military Board Meets....	997	Props and Timber	1021
Retired List; Who Are Eligible.	998	Safety Lamps	1022
		Two Openings Required	1023
MILITIA, Governor Appoints Officers		Escapeway	1024
(Const., sec. 276).		Maps of Mines	1025
" Governor Commander-in-Chief		Gaseous Mines	1026
(Const., sec. 131).		Ventilating System	1027
" Military; State Troops...929 et seq.		Safety Catches, Brakes, Props ..	1028
" Military; State Troops (Crim-		Engineers	1029
inal Code)7396-7417, 7546		Accumulations of Gas	1030
" Organization of (Const., secs.		Fire Boss	1031
271-278).		Accidents Causing Injury Re-	
" Privileged from Arrest (Const.,		ported	1032
sec. 275).		Rules Posted	1033
" Prosecutions Against (Const.,		Women and Boys Not to Work	
sec. 8).		in	1035
" Pay (Const., sec. 278).		Controversies; How Settled....	1036
" Volunteer Forces (Const.,		Adjacent Owner Inspect Mine..	1038
sec. 8).			
MILLDAM (Civil Code)	3888-3909	MINES and Mining Preparatory	
MILLS and Millers (Civil Code) ...	4892, 4893, 3888-3909	School	1971-1974
" and Millers (Criminal Code)..	7823	" Inspectors of	999-1038
MINES and Mining	999-1038	MINING, Quarrying, and Manufac-	
" and Mining (Criminal Code)..	7418-7420	turing Companies (Civil Code) 3481	
Inspectors Appointed	999	MINISTERS, Itinerant (Civil Code)	
Salary of	1000	3593-3596, 4881	
Qualifications of	1001	MINORS (Civil Code)4337-4481, 2485	
Duties of	1002	" (Criminal Code) ..6446, 6896,	
Remove Inspector for Incompe-		7354, 7370	
tency	1003	" and Widows; Exemptions	
Report to Governor	1004	(Civil Code)	4205-4230
		" Disabilities of Non-Age (Civil	
		Code)	4505-4511
		" Relieved of Non-Age (Const.,	
		sec. 104).	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.
MINUTES (Civil Code)	5732, 5733
MISCEGENATION (Criminal Code)	7421, 7422
“ (Const., sec. 102).	
MISCELLANEOUS Provisions	
(Const., secs. 280-283).	
MISCONDUCT of Officers (Criminal Code)	7430-7490
MISDEMEANORS (Criminal Code)	6210-7900
“ Conviction of Deprives of Right to Vote (Const., sec. 182).	
“ Trial Without Jury (Const., sec. 9).	
MISFEASANCE in Office (Const., sec. 8).	
MISSISSIPPI Territory Established (pp. 22-30).	
“	83
MISTAKE (Civil Code)...	5368, 4140, 2649, 2650
MOBILE Bay and Harbor (Criminal Code)	7869-7871, 7811
“ Excepted as to Rate of Tax for Municipal Corporations (Const., sec. 216).	
“ County, Excepted from Article 14 (Education or Schools) (Const., sec. 270).	
“ Fort Louis de la	807
“ Medical College	1889
MOBS (Criminal Code)..	7721-7726, 7400, 7401
“ Liability of Sheriff as to (Const., sec. 138).	
MODE of Amending the Constitution (Const., secs. 284-287).	
MONEY (Civil Code)....	5150, 5152, 5899-5935
“ Circulating Medium (Const., secs. 247-255).	
“ How Paid Out of Treasury (Const., sec. 72).	
“ Gold and Silver of Final Redemption (Const., sec. 249).	
“ State Shall Not Lend (Const., sec. 93).	
MONEY-LENDING	2361

	SECTION.
MONOPOLIES Prohibited (Const., sec. 103).	
“ (Civil Code)	2487
“ Trusts, and Combines (Criminal Code)	7579-7582
MONTGOMERY , County of (Civil Code)	5928-5930, 6113, 6114
MONTH	8, 1759
MONUMENT COMMISSION ..	1039-1045
Established	1039
Officers	1040
Powers and Duties of	1041
Appropriations for	1042
For Specific Monuments	1043
Intent of Appropriation	1044
May Join with Other Commission	1045
MONUMENT of Fort Louis de la Mobile	807
MORTGAGED Property (Disposing of Property Unlawfully)(Criminal Code)	7342, 7343, 7423
MORTGAGE , Homestead, Mortgage of (Const., sec. 205).	
MORTGAGES (Civil Code)....	4894-4900, 3359 et seq., 4160
“ (Selling or Disposing of Mortgaged Property Fraudulently) (Criminal Code)....	7423
MOTIONS (Civil Code)	2838, 3680 et seq., 5899 et seq.
MOUNTAIN CREEK Home ...	2038-2053
MOUNT VERNON Hospital ...	836- 878
MULATTO	2
MUNICIPAL Bonds, Coupons of....	1434
“ Bonds Exempt from Taxation.	1431
“ Bonds for Public Improvements	1408
“ Bonds for Public Utilities..	1421-1435
“ Bonds, how Issued (Const., sec. 22).	
“ Bonds, Refunding (Const., sec. 225).	
“ Bonds, Validity of	1435
“ Code	1046-1460
“ Corporations (Const., secs. 220-241).	
MUNICIPAL CORPORATIONS, CODE OF	1046-1460
Absorbed, Merged, or Annexed Corporations	1156-1163
Debts, Liabilities, or Contracts of	1156

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
Municipal Corporations, Code of—	Funds, Moneys, etc. 1244
Continued.	Meetings of Board 1245
Property of 1157	Reports of 1246
Taxes of 1158	Removal of Members 1247
Actions, Suits, Fines, and For-	Members Not Interested in Con-
feitures of 1159	tracts 1248
Books, Documents, Files, Etc. .. 1160	Roads and Streets 1249
Public Utilities 1161	Reports of Board 1250
Bonded Indebtedness 1162	Bodies Corporate and Classified ..
School Property 1163	1046-1052
Annexation and Merger, Alternate	Bodies Politic and Corporate.... 1046
Mode 1133-1155	Elections 1047
Commission to, Terms..... 1133	Organizing Under Municipal
Mode of Appointing 1134	Code 1048
Agreement of 1135	Powers and Rights 1049
Ordering Election 1136	Rights and Actions Preserved... 1050
Inspectors for Election 1137	Limits Not Changed 1051
Ballots for Election 1138	Classified 1052
Result of Election 1139	Bonded Indebtedness, Settlement
Agreements of Filed 1140	and Refunding of 1436-1438
When Perfected 1141	Bonded Indebtedness 1436
Costs and Expenses of 1142	Secured by Mortgage, etc. 1437
Ownership Property Annexed .. 1143	Refunding 1438
Pending Actions 1144	Bonds for Public Utilities.... 1421-1435
Rights of Action 1145	Elections for 1421
Actions Brought by 1146	Notice of 1422
Action in Favor of 1147	Form of Ballot 1423
Indebtedness, Liability, etc.... 1148	Officers of 1424
Agreement of Annexation Con-	Expenses of 1425
tract 1149	Canvassing Board 1426
Ordinances and Resolutions of.. 1150	Contest of 1427
Dissolution of 1151	Record of 1428
Effect of Dissolution 1152	Authority to Issue Bonds..... 1429
Exemption from Taxation 1153	Limit of Indebtedness 1430
Wards and Aldermen of 1154	Bonds Exempt from Taxation .. 1431
Alternate Mode of 1155	Character of Bonds 1432
Annexation Limits, Boundaries and	Seal on Bonds 1433
Extension of 1070-1074	Coupons of 1434
Mode of Extending Boundaries.. 1070	Validity of Bonds 1435
Election for 1071	Cemeteries, Graveyards, Burial
Subsequent Extension 1072	Grounds, Care and Mainte-
Subsequent Elections 1073	nance of 1309, 1310
Declaring Result of 1074	Clerks of; Powers and Duties of..
Board of Public Works 1233-1250	1199-1203
Board of 1233	Consolidating Municipalities . 1126-1132
Election, Term of Office 1234	Mode of 1126
Salary of Board 1236	Plants Exempted from Taxation. 1127
Oath of Office 1237	Election Ordered for 1128
Vacancies; How Filled 1238	Divided Into Wards 1129
Assistants 1239	Ward Commission 1130
Board; Powers of 1240	Officers of 1131
Duties and Powers of 1241	Powers and Rights of 1132
Officers Assist Board 1242	
Board Purchase Machinery, etc.. 1243	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Municipal Corporations, Code of—	SECTION.
Continued.	
Council; Powers and Duties of. 1192-1198	
Powers of	1192
Shall Not Hold Other Office or Be Interested in Contracts	1193
Aldermen Not Interested in Contracts	1194
Contracts to Lowest Bidder	1195
Appropriations Annually	1196
Shall Not Vote in Certain Cases.	1197
Meetings	1198
Elections, Municipal	1164-1171
Held Under General Laws.....	1164
Registration List	1165
Poll Lists	1166
Canvassing Returns	1167
Contest of	1168
Challenging Votes	1169
Failure to Hold Election	1170
Of Officers Provided for	1171
Drainage, Sewers, Etc.	1302-1308
Powers	1302
To Condemn or Purchase	1303
Owners to Ditch or Drain	1304
Connection With Sewers, etc....	1305
Plumbing Regulated	1306
Closets, Sinks, Cesspools, etc....	1307
Notice and Publication of	1308
Eminent Domain, Condemnation;	
Rights and Powers as to ..	1439-1442
Condemnation, Rights	1439
Rights of Way; Water Rights..	1440
Ad Quod Damnum	1441
Appeal from	1442
Extension Cities of Twenty-five Thousand	1075-1125
Power to	1075
Resolution	1076
Copy of Resolution	1077
Probate Judge Orders	1078
Notice and Publication	1079
Places for Holding	1080
Managers and Officers	1081
Qualification of Voters	1082
General Election Law	1083
Ballot	1084
Result	1085
Canvassing Returns	1086
Contest of	1087
Costs of	1088
Plat or Map of Territory	1089
Property Exempt from Taxation.	1090
Subject to After Five Years.....	1091
Plants Exempt from Taxation..	1092
Subject to Taxation	1093
Notice to Owners	1094
Joint or Several	1095
Contest of Right to Tax	1096
Decree of Court	1097
Hearing and Proceedings	1098
Appeal by Owner	1099
Notice of Appeal	1100
Papers Transmitted	1101
Judgment or Decree on Appeal..	1102
Clerk Certifies Back to Probate Judge	1103
When Subject to Taxation	1104
Territory Subject to Laws.....	1105
Wards; Aldermen and Councilmen	1106
Wards, Voting Precincts	1107
Changed and Rearranged	1108
Persons Exempt from Taxes....	1109
Sanitary Sewers Provided	1110
Sidewalks; Curbing	1111
Street and Road Tax	1112
Road Tax Apportioned	1113
License Liquors, Dance Halls, etc.	1114
Improvements and Betterments..	1115
License or Privilege Tax	1116
Utility Corporations	1117
Taxes to Exempt Territory.....	1118
Schools	1119
Cities Apply to Be Attached....	1120
Fees or Compensation	1121
Provisions of Article Held to Be Contract	1122
Two or More Extensions	1123
Records or Proceedings	1124
Subsequent Election	1125
Foreign; Powers to Acquire Water Rights	1443-1449
May Acquire Water Rights	1443
Rights and Powers of	1444
To Contract for Water Supply..	1445
Property of Exempt from Levy, etc.	1446
Jurisdiction as to	1447
Property Subject to Taxation..	1448
Consent of Commissioners.....	1449
Health Laws and Regulations. 1208-1212	
Incorporation, Mode of; Election For	1053-1069
Communities of One Hundred ...	1053

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Municipal Corporations, Code of—	SECTION.
Continued.	
Elections Ordered	1054
Holding	1055
Census, Enumeration	1056
Election of Officers for	1057
Setting Aside and Ordering An- other	1058
Dormant, Reinstated	1059
Census Provided for	1060
Alphabetical Census	1061
Wards, Divided Into	1062
Elections, Time of Holding	1063
Time of Election	1064
Qualifications of Officers	1065
Cities of Six Thousand	1066
Less Than Six Thousand	1067
Mayor; When Elected	1068
Mayor and Council, Qualifica- tions, Eligibility of	1069
License to Carry on Business,	
Trades, Etc.	1338-1347
Auctioneers	1338
Business, Trade, Profession, etc..	1339
Drays, Carriages, Wagons, etc..	1340
Theaters, Tenpins, Shooting Gal- leries, and Liquor Houses...	1341
License, Power to Revoke	1342
Year or Part of Year	1343
Unlawful Without	1344
Place of	1345
Two or More Businesses	1346
Games, Amusements	1347
Officers, Powers, Duties, Removal,	
Impeachment, Etc.	1172-1191
Removal of Officers	1172
Impeachment of	1173
Grounds Trial and Proceedings..	1174
Accepting Employment from Public Service Corporation Vacates Office	1175
Funds; Misappropriation of....	1176
Witnesses, Evidence, etc.	1177
Mayor; Powers, Duties, Salary, etc.	1178
Mayor Chief Executive	1179
Reports to Mayor	1180
Borrowing Money	1181
Loans Confirmed	1182
Contracts of	1183
Deeds, Conveyances, Bonds, Ob- ligations, etc.	1184
Resolutions and Ordinances	1185
	SECTION.
Veto and Disapproval of Ordi- nances	1186
Vetoed or Approved in Part	1187
President Pro Tempore of Coun- cil	1188
Official Bonds of Officers	1189
Officers Must Pay Over Money..	1190
Claims Against Municipalities..	1191
Ordinances and Resolutions ..	1251-1259
Power to Adopt	1251
Style of; How Adopted	1252
Amendment	1253
Codification	1254
Officers' Salary, Fees, etc.	1255
Employee, Compensation, etc., How Paid	1256
Not Increased or Diminished ...	1257
Publication and Recording	1258
Ordinances as Evidence	1259
Police Commission	1231, 1232
Police Jurisdiction; Territorial ...	1230
Powers, Authorities, and Duties of Municipalities	1260-1295
Waterworks, Gas, and Electric Plants	1260
Established	1261
Bonds Issued	1262
Purchaser at Foreclosure Sale; Franchise Rights of.....	1263
Fire Limits; Plumbing, Wiring, etc.	1264
Fire Department	1265
Sidewalks, Streets, Cellars, Stair- ways, etc.	1266
Street Railroads May Run Over Tracks of One Another	1267
Telegraph, Telephone Lines, Use of Streets for	1268
Railroads and Street Railroads Required to Keep Streets in Repair	1269
Scales, Weights, Measures, Water Courses, Wharves, Parks, Boulevards, etc.	1270
Powder Magazines, Explosives, Care of	1271
Cars, Trains, Street Crossings, Grades, etc.	1272
Liability of Municipality for Negligent Acts of Agents, Servants, etc.	1273

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Municipal Corporations, Code of—
Continued.

	SECTION.
Actions and Suits Against for Negligent Acts of Agent, etc.	1274
Statements, Claims, or Demands for Injury Filed	1275
Health and Quarantine Provisions	1276
Hospitals, Poor and Almshouses.	1277
Nuisances Provided Against....	1278
Markets, Regulation of	1279
Wells, Cisterns, Care of	1280
Slaughter Houses, Regulation of.	1281
Crematories, Garbage, etc.	1282
Drainage, Connection with Sewers	1283
Burial Plots, Cemeteries, Graveyards, etc.	1284
Animals, Stock; Impounding, Running at Large	1285
Plumbing, Drainage, etc.	1286
Jails, Hospitals, Morgues, Public Baths, etc.	1287
Lands Belonging to Municipality, Care of	1288
Diseases, Contagious, Infectious, etc.	1289
Health, Sewerage, etc.	1290
Gaming	1291
Sewerage	1292
Water Closets, Privies, etc.	1293
Prostitution, Houses of Ill Fame.	1294
Adulterated Food, Drink, etc., Inspection of	1295
Provisions Applicable to All Cities and Towns	1450-1460
Punishment of Women	1450
Appeals from Judgments	1451
May Regulate Running of Trains; Standing on or Across Streets	1452
Magazine to Be Built	1453
Mayor to Close Certain Places in Case of Riot	1454
Special Tax Kept Separate	1455
Salary of Mayor and Other Officers in Cities of Over Twenty-five Thousand Population	1456
Officers Not Employed by Corporation Holding Municipal Franchise	1457
To Purchase School Property and Maintain Public Schools	1458

	SECTION.
To Pay Bonds for Waterworks, Gas, and Electric Plants....	1459
To Care for Sick or Wounded Persons	1460
Public Improvements, Betterments, Power to Construct and Maintain	1359-1420
General Powers	1359
Definition and Explanation	1360
Ordinance or Resolution Describing Improvement Desired; Ordering the Drawing of Plans, Specifications, etc.	1361
Drawings, Plans, Specifications, etc., Filed to Await Objections or Remonstrances Thereto	1362
Publication of Ordinance	1363
Hearing of Objection	1364
Cost of Improvements	1365
Grade of Street, Sidewalk, etc., Fixed and Established	1366
Notice, Advertisement, and Letting of Contract	1367
City Engineer Supervises	1368
Accepting or Rejecting Work..	1369
Power to Levy Betterment Taxes	1370
Mode of Levying and Collecting.	1371
Intersection of Streets, etc.	1372
Sidewalks, Curbing, etc.	1373
Street Car or Railroad Tracks..	1374
Roll or List of Owners, Lots or Parcels of Property.....	1375
“Assessment Book for Local Improvement”	1376
Notice as to	1377
Hearing of Objections to	1378
Contents and Sufficiency of Notice	1379
Defects in Notices	1380
Objections or Defenses to Assessments	1381
Hearing of Objections Against..	1382
Witnesses, Subpoenas for	1383
Liens; Superiority of Such Liens	1384
Liens, Transfer	1385
Chancery Court May Enforce ..	1386
Tax Liens, Relation of, and Effect of as to Assessments...	1387
Several Liens on Same Property.	1388
Appeal from Assessments.....	1389
Appeal Bonds	1390
Appeal, Preferred Cases	1391

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Municipal Corporations, Code of—

Continued.	SECTION.
Transcript for Appeal	1392
Prima Facie Evidence	1393
Tried on the Record	1394
Judgments on Appeal	1395
Appeal to Supreme Court	1396
Heard on Record	1397
Judgment on Affirmance	1398
Appeal by Municipality	1399
Execution and Sale	1400
Payment of Assessments	1401
Failure to Pay Installment Ma- tures Subsequent Ones	1402
Payment at Any Time Before Sale	1403
Cost of Sale	1404
Deed to Purchasers	1405
Redemption After Sale	1406
Mistakes or Errors in Sale.....	1407
Bonds for Improvements	1408
Power to Borrow Money	1409
Bond, Denomination and Condi- tion of	1410
Of Less than Six Thousand In- habitants	1411
Proceeds of Bond Sale	1412
Account of Funds	1413
Officers Liable for Funds	1414
Deposit of Funds Arising	1415
Redemption of Bonds	1416
Refunding of Excess	1417
Limitation for Presenting Claim	1418
Mode of Improvements Not Ex- clusive	1419
Lands Purchased or Condemned.	1420

**Railroad Tracks, Bridges, Viaducts,
Tunnels, Etc., Provided for...**

1296-1301

Municipalities Which May Re- quire	1296
Vacation of Streets	1297
Ordinances Requiring	1298
Failure to Comply With Ordi- nance	1299
Chancery Court May Compel....	1300
Appeal by Railroad	1301

Recorders and Recorder's Courts..

1213-1229

Defined	1213
Number, Election, Jurisdiction..	1214
Jurisdiction, Powers, and Duties of	1215

SECTION.

Power to Fine, Punish, Imprison, and Sentence to Hard Labor	1216
Appeals from	1217
Judgments on Appeals	1218
Prison Dues, Convict Delivered.	1219
Appeal to Supreme Court	1220
Concurrent Jurisdiction With County Court	1221
Fines and Punishments Same as in State Courts	1222
Preliminary Proceedings	1223
Powers of, Additional	1224
Sheriffs Shall Obey and Execute Process	1225
Mayor May Remit Fines and Commute Sentences	1226
Tax Assessor and Collector, Chiefs of Police and Fire De- partments Provided for	1227
Mayor Ex Officio Recorder	1228
Accountant, Expert, Employed..	1229
Schools and Education.....	1348-1358
Regulation of	1348
Education, Board of	1349
Election of Board	1350
School Property, How Held	1351
Appropriations for Schools	1352
Schools, Control of	1353
Superintendent of Schools	1354
Board of Towns Having Over One Thousand and Less Than Six Thousand Inhab- itants	1355
School Districts	1356
Municipalities Exempt from School Law	1357
Libraries	1358
Taxation	1311-1337
Levy and Assessment	1311
When Due and Delinquent.....	1312
Judgments; Execution	1313
Taxes, Lien of	1314
Tax Sale, Title of	1315
Garnishment for Collection	1316
Unknown Owners	1317
Demand for Payment	1318
Delinquent List of	1319
List Filed in Chancery Court...	1320
Publication as to Unknown Owner	1321
Tax Sales in Chancery Court ...	1322
For Street Improvements	1323

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Municipal Corporations, Code of—
Continued.

	SECTION.
Tax Sales, Proceeds Thereof	1324
Purchase by Municipality	1325
Not Void Because of Irregularities	1326
Escaped, Assessment for	1327
Redemption from	1328
Redemption; Deeds and Conveyances	1329
Redemption by Municipality	1330
Purchase at; Right of Possession	1331
Appeals to Supreme Court	1332
Attachment or Garnishment	1333
No Release or Exemption from	1334
Special Road or Bridge; One-Half to Municipality	1335
Roads, Exemption of Inhabitants from Working	1336
Notice by Town Tax Collectors	1337
Treasurers, Powers, Rights, and Duties of	1204-1207
MUNICIPAL Corporations, Contracts of	1193 et seq.
“ Corporations, Council of	1192 et seq.
Constitutional Provisions.	
“ Corporations, Debts, Limited (Const., sec. 225).	
“ Corporations; Foreign	1443-1449
“ Corporations, Grants of Use or Franchise for Longer Than Thirty Years Prohibited (Const., sec. 228).	
“ Corporations, How Authorized to Issue Bonds (Const., sec. 104).	
“ Corporations, How Incorporated (Const., sec. 104).	
“ Corporations, Property of Not Taxed (Const., sec. 91).	
“ Corporations Shall Not Be Stockholder in or Lend Credit to Private Corporation (Const., sec. 94).	
“ Corporations Shall Not Lend Money or Credit to Private Enterprise (Const., sec. 94).	
“ Corporation Shall Not Pass Law Inconsistent with General Laws (Const., sec. 89).	
“ Corporations, Streets and Sidewalks, Use of (Const., sec. 220).	

	SECTION.
MUNICIPAL Corporations, Tax Rate (Const., sec. 216).	
“ Corporations, Warrants, Interest on	1205
“ Courts	1213-1229
“ Elections	1164-1171
“ Indebtedness, Adjusted	1436
“ Officers	1172-1207
“ Ordinances	1251-1259
“ Privilege Taxes (Const., sec. 221).	
“ School Districts, Control of	1701
MUNICIPALITIES, Claims for Personal Injuries	1275
“ Dormant	1059
MURDER (Criminal Code)	7084-7088
MUSICAL Entertainment	2361
MUTES	1933-1953
MUTUAL Aid Associations (Civil Code)	3564-3572
“ (Criminal Code)	7424, 7425
“ Insurance Companies (Civil Code)	4597-4605
NAME (Civil Code)	5201, 5202, 5368, 5419
“ of City or Town Changed	1074
NAMES of Counties	121-123
NATIONAL Banks Excepted from Constitution (Const., sec. 255).	
“ Flag	2059
“ Guard	929-998
NAVIGABLE Streams	128
“ (Civil Code)	6143-6146
NAVIGABLE Waters, Highways (Const., sec. 24).	
NAVIGATION (Civil Code)	4901-4957
“ as to Watercourses (Civil Code)	6143-6150
“ Companies (Civil Code)	3481
NE EXEAT (Civil Code)	3179, 3180, 3188
NEGLECT of Duty of Public Officers (Const., sec. 87).	
NEGLIGENCE (Civil Code)	2484-2486, 3910-3912, 5473-5476
“ as to Municipalities	1273, 1274
“ of Agents of Municipalities	1273
NEGOTIABLE Instruments and Commercial Law (Civil Code)	4958-5149
“ Paper (Civil Code)	5145 et seq.
NEGRO	2
“ (Civil Code)	5487, 5488
“ School for Deaf Mutes	1949-1953

SECTION.	SECTION.
NEGROES and Whites Shall Not In- marry (Criminal Code). 7421, 7422	NOTES and Bills (Civil Code).. 4958-5161
“ Separate Schools for 1757	“ and Bills Issued as Money (Const., sec. 249).
NEIGHBORHOOD Incorporated ... 1053 et seq.	NOT GUILTY (Civil Code)..... 3842, 5383
NEW Counties 124- 127	NOTICE Required for Local Laws (Const., sec. 106).
“ Counties, Elections in 452- 454	“ Required to Repeal, Revise, or Modify Local Law (Const., sec. 107).
“ Decatur Excepted from Con- stitution as to Special School Tax (Const., sec. 269).	NOTICES , Public (Civil Code) 5181-5192, 2830, 5352
“ Decatur Excepted from Rate of Taxation (Const., sec. 216).	NOISANCE , Abatement of, by Health Officer 718
NEWSPAPER , Publication in of No- tice of Passage of Local Laws (Const., sec. 106).	NOISANCES (Civil Code) ... 5193-5198
NEWSPAPERS 1660, 1661	“ (Criminal Code) 7426
“ (Civil Code) 5181-5192	“ in Municipalities 1278
NEW Trial and Rehearing (Civil Code) 5371-5381	NUMBER 1, 2060
NEXT Friend (Civil Code)... 2476-2478	NUNC PRO TUNC (Civil Code)... 4139, 4144
“ of Kin (Civil Code)... 3754-3762	NUNUCUPATIVE Will (Civil Code). 6174-6180
NIL DICIT (Civil Code).. 2963, 4656, 5356	NURSERIES , Regulation of 811- 826
NOBILITY and Hereditary Titles Denied (Const., sec. 29).	OATH 1475-1482
NOLLE PROSEQUI (Criminal Code) 7155, 7156	“ (Civil Code) 4631
NON-AGE , Disability of (Civil Code) 4505-4511	“ (Criminal Code) ... 7296, 7273, 7284
NON COMPOS MENTIS 1	“ of Office (Const., sec. 279).
NON EST FACTUM (Civil Code).. 3967, 3968	“ Form of (Const., sec. 279).
NON-NEGOTIABLE Instruments (Civil Code) 5153-5161	“ or Affirmation for Search War- rant (Const., sec. 5).
NONRESIDENTS (Civil Code)..... 2556-2565, 2825-2829, 2930, 2934	“ Required of all Officers (Const., sec. 279).
“ Notices (Civil Code) 5181-5192, 3101 et seq.	OATS 2439
NON-SUIT (Civil Code).. 5353, 3017, 4055	OBLIGATIONS Due State (Const., sec. 100).
NORMAL Schools, Appropriations to (Const., sec. 73).	“ of Contracts, etc., Shall Not be Impaired (Const., sec. 22).
NOTARIES Public (Civil Code)... 5162-5180	OBSCENE Language (Criminal Code) 6217
“ Public, Ex Officio Justices; Number and Jurisdiction of; Appointment (Const., sec. 168).	“ Prints and Literature (Crim- inal Code) 7427-7429
“ Public, Number and Appoint- ment of (Const., sec. 168).	OBSTRUCTING Process (Criminal Code) 7708-7711
“ Public; Oath of Office (Const., sec. 279).	“ Watercourses (Criminal Code) 7863-7873
	OBTAINING Goods Under False Pre- tense (Criminal Code).. 6920 et seq.
	ODD FELLOWS (Civil Code).. 4562, 3571
	OFFENSE , Not Twice in Jeopardy for Same (Const., sec. 9).

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.

OFFICE, Oath of (Const., sec. 279).
 " of Trust or Profit, Qualifications for (Const., secs. 60, 79).
 " Removal from1556-1568

OFFICE DE FACTO 1473

OFFICES AND OFFICERS1461-1571

Bonds, Additional, and New Sureties in Certain Cases ..1525-1539

Auditor and Treasurer 1525

Bonds Approved by Circuit Judge or Chancellor 1526

County Officers' Terms Extended Approved by Judge of Probate. 1528

Requisition in Writing, and Copy Served 1529

When to be Given 1530

Penalty, etc. 1531

Effect of 1532

First Bond Not Discharged..... 1533

Rights of Sureties Among Themselves 1534

Five Freeholders May Petition.. 1535

Day for Hearing 1536

Application, Order, and Minute. 1537

Failure to Make, Office Vacant. 1538

Affidavit Required 1539

Bonds by Guarantee Companies...
 1507-1524

Official Bonds 1507

Domestic Corporations 1508

Foreign Corporations; Annual License-Tax 1509

Secretary of State's Certificate Good for One Year 1510

Not Sole Surety on Bond of State Treasurer 1511

Testator May Preclude 1512

Revoke Certificate When Unsafe 1513

No Agent in State, Process Served on the Secretary of State 1514

Jurisdiction of Suits on Bonds.. 1515

Corporation Estopped to Deny Power to Execute Bond.... 1516

Judgment Certified to Secretary of State 1517

Corporation Entitled to Rights and Remedies of Other Sureties. 1518

May Wind up Business and Withdraw Securities 1519

SECTION.

Deposit Impaired Made Good... 1520

Domestic Corporation; Additional Securities 1521

Examination Into the Financial Condition 1522

Article Applies Only to Official Bonds and the Like..... 1523

Bonds of Auditor and Secretary of State; Appropriation for 1524

Bonds, Sureties on1540-1548

Application to be Discharged.. 1540

To Whom Made 1541

Notice to Give New Bond..... 1542

Failure to Give it..... 1543

How Approved and Filed..... 1544

When Sureties Discharged 1545

When New Bond Goes into Effect 1546

Effect of Exoneration of Surety. 1547

Sureties' Rights Among Themselves 1548

Books, Papers, etc., Delivered to Successor1549-1555

Property and Papers 1549

Proceedings to Compel 1550

Officer Discharged on Affidavit.. 1551

On Refusal, Imprisoned 1552

Search Warrant 1553

To Incumbent if Obtained..... 1554

In Possession of Any Other Person 1555

Eligibility to Office; Residence and Commission; Filling Vacancies1467-1474

Persons Ineligible to Office..... 1467

Residence of Officers 1468

Commissioned Officers 1469

Commission 1470

When Commission Issues 1471

Commission Not Necessary 1472

Acts of De Facto Officer Valid.. 1473

Vacancies; How Filled; Term of 1474

Oaths of Office1475-1482

Dueling Oath 1475

Who May Administer 1476

What Filed With Secretary of State 1477

Judge of Probate; Where Filed. 1478

Filing of Other Officers..... 1479

Of Deputies; How Taken 1480

Of Municipal Officers 1481

To be Indorsed with the Date of Filing 1482

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Offices and Officers—Continued.	SECTION.	SECTION.	
Official Bonds	1483-1506	Vacating Office; Death, Resignation, Insanity, Removal	
To Whom Payable; Condition;		1556-1568	
Sureties	1483	How Vacated	1556
Indorsed, Date of Approval	1484	Of Judicial Office by Acceptance	
Improperly Approving	1485	of Another	1557
Not Filed Unless Properly Ap-		Sentence to the Penitentiary	
proved	1486	Vacates Office	1558
Date of Filing to be Indorsed...	1487	Of Clerk of the Circuit Court,	
Sufficiency of Sureties	1488	etc.	1559
Officers Not Sufficient	1489	Insanity Vacates Office	1560
Attorneys or Solicitors Not Suf-		Notice of Death of Member of	
ficient	1490	Congress, or of Legislature,	
Bond a Lien	1491	etc.	1561
By Whom Approved	1492	Of Judge of Probate Given by	
Time of Filing with Secretary of		Circuit Clerk	1562
State and Auditor	1493	Resignation of Governor	1563
In Circuit Clerk's Office	1494	Of Member of Congress, etc....	1564
In Office of Judge of Probate..	1495	Of Justices and Constables	1565
In Other Cases, Within Thirty		Removal from County, etc....	1566
Days	1496	Notice of Judgment Vacating..	1567
To be Recorded	1497	Notice Filed by the Legislature	1568
Failure to File Vacates Office..	1498	OFFICERS and Officers	1461-1571
Notice of Failure Given to the		" (Elections)	290- 491
Solicitor	1499	" (Criminal Offenses Concerning)	
Legal Effect of	1500	(Criminal Code)	7430-7490
Conditions of	1501	Constitutional Provisions.	
Not Properly Executed or Ap-		" Disqualification by Reason of	
proved; Effect of	1502	Crime (Const., sec. 60).	
Informal Bonds Valid	1503	" for Inspection of Merchandise	
Not Discharged by Single Re-		Denied (Const., sec. 77).	
covery	1504	" no Religious Test (Const., sec.	
Conditional Execution or De-		3).	
livery	1505	" One Person Shall Not Hold	
Applies to Offices Hereafter		Two at Same Time; Excep-	
Established	1506	tions (Const., sec. 280).	
Salaries; When Payable	1569-1571	" of Profit and Trust (Const.,	
Salaries; When Due	1569	sec. 280).	
Succeeding Officer Entitled to		" Oppression and Misfeasance in	
Salary for Day Change		(Const., sec. 8).	
Takes Place	1570	" Qualification for (Const., secs.	
Salaries of Certain Officers; In-		116, 117, 132).	
cumbents, When Effective..	1571	" Salary, Fees, or Compensation	
Of Governor and Other Execu-		of Civil Officer Shall Not be	
tive Officers	1461	Increased or Diminished	
Of Railroad Commissioners	1462	During the Term for Which	
Judicial Officers	1463	He is Elected (Const., sec.	
Of County Officers	1464	281).	
Of Circuit Solicitors	1465	" Shall Not be for Longer Time	
Tax Assessor and Tax Collector.	1466	than Good Behavior (Const.,	
		sec. 29).	
		" Terms of Incumbent Officers	
		Not Affected by Ratification	
		of Constitution (Schedule 3).	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.

OFFICERS and Officers, Terms of Not Abridged by Constitution (Const., sec. 172).
 " Terms of, Judges of Courts of Record and Chancellors (Const., sec. 155).
 " Terms of Senators and Representatives (Const., sec. 46).
 " Vacancies; How Filled (Const., sec. 158).
 " Vacancies in Executive, Filled by Appointment of the Governor (Const., sec. 136).
 " Vacancies in Legislature; How Filled (Const., sec. 46).
 " Which Legislators Shall Not Hold (Const., sec. 59).
OFFICERS, Bribery of (Const., sec. 80).
 " Executive; Shall Make Report to Governor (Const., sec. 137).
 " Executive; When and How Each Elected; Eligibility of; Compensation of (Const., secs. 114, 119, 132).
 " Fees and Allowances; How Changed (Const., sec. 104).
 " Fees and Compensation Must be Regulated by General Law (Const., sec. 96).
 " Fees, Salaries, and Compensations; Deductions from for Neglect of Duty (Const., sec. 87).
 " Free Passes Not Issued from Railroads to Judicial or Legislative Officers (Const., sec. 244).
 " Impeachment of (Const., secs. 173-176).
 " Municipal1172-1207
 " Municipal; Not Employed by Certain Corporations 1457
 " of County; Fees and Salaries Must be Uniform (Const., sec. 96).
 " of County or Municipality Shall Not Receive Increase of Compensation During the Term of Office (Const., sec. 68).
 " of Legislature (Const., sec. 67).

SECTION.

OFFICERS of Municipalities; Qualifications; Eligibility of..1064-1069
 " of Municipality, Salary of.... 1456
 " of Public Schools 1680
 " Qualification of (Const., secs. 116, 117, 132).
 " Removal by Quo Warranto (Civil Code)5450-5472
 " Salaries of Deceased and Retired, Not Continued (Const., secs. 97, 98).
 " Salary, Fee, or Compensation Shall Not be Increased or Diminished (Const., sec. 281).
 " Salary of Incumbent Officers Not Affected by Ratification of Constitution (Schedule 6).
 " Selling Property Must First Pay Taxes 2356
 " State and County; Shall Not Lobby (Const., sec. 101).
 " Terms of Incumbent Officers Not Affected by Ratification of Constitution (Schedule 3).
 " Time of Election331- 338
OFFICIAL Bonds 1497
 " Bonds; Condition of1501-1506
 " Bonds; Legal Effect of...1500-1503
 " Bonds Made by Guaranty Companies1507-1524
 " Bonds, New, Required...1525-1539
 " Bonds; Penalty for 1485
 " Bonds; Time of Filing...1493-1499
OFFSET (Civil Code)5858-5880
OILS1572-1580, 2361
 " (Criminal Code) 7491
 " Illuminating; Regulations.1572-1580
OLEOMARGARINE (Manufacturing or Selling) 22
 " (Criminal Code) 7079
OPENING on Streets and Sidewalks. 1266
OPPRESSION in Office (Const., sec. 8).
ORDINANCES of Municipalities... 1251-1259
ORIGINAL Jurisdiction of Supreme Court (Const., sec. 140).
OUTLAWS (Criminal Code) 7492
OVERFLOWED Lands879- 882
OVERSEER of Roads (Civil Code).. 5797 et seq.

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
OVERT Act, Evidence of Treason (Const., sec. 18).	PARTNERSHIP (Civil Code) 5265-5289, 2653-2665
OYSTERS1581-1592 Planting and Taking1581-1586 Taking Oysters for Canning Regu- lated1587-1592	PASSENGER Rates Fixed (Rail- roads) (Civil Code)5563, 5564
OYSTERS ; Offenses Concerning (Criminal Code)7493-7509	PASSENGERS (Civil Code) ..5487, 5488 " Transportation of (Railroads) (Civil Code)5472-5631
PAPERS of Office Delivered to Suc- cessor1549-1555 " Secure from Search (Const., sec. 5).	PASSES from Railroads Not Issued to Judicial or Legislative Offi- cers (Const., sec. 244).
PARDON Board Established (Const., sec. 124). " Granted by Governor (Const., sec. 124).	PASTURAGE Lien (Civil Code).... 4808, 4809
PARDONING BOARD1593-1597 Attorney-General, Secretary of State, and Auditor, Pardon- ing Board 1593 Duties of Pardoning Board.... 1594 Authority of Pardoning Board.. 1595 Annual Report of Pardoning Board 1596 No Additional Compensation ... 1597	PATENTS888-891, 1796, 1797 " Issued Under Great Seal (Const., sec. 135). " of Land, by State.....888 et seq.
PARDONS , Commutations, and Re- prieves573, 1558 " (Criminal Code) 7510-7516, 7653, 7654 " Remissions of Fines and For- feitures, etc., to be Reported to the Legislature (Const., sec. 124). " When Relieved from Political and Civil Disability (Const., sec. 124).	PAUPERS1598-1617 Commissioners Purchase and Sell Lands and Other Property for Poorhouses 1598 Jurisdiction; Poorhouses 1599 Settlement of Paupers 1600 Relief of Those Not Entitled to a Settlement; Burial of Strangers 1601 Certain Dead to be Buried by Corporate Authorities 1602 Strolling Paupers Removed, and, if Sick, Relieved 1603 Rules for Government of Poor- House 1604 Pauper Employed in Labor.... 1605 Duty of Each Supervisor..... 1606 Relief Until Removed 1607 County May Appropriate Money in Aid of Indigent Confed- erate Soldier or Sailor.... 1608 Compensation to Persons Caring for Insane Paupers..... 1609 Pauper Lunatics Supported by the Overseer of the Poor... 1610 Sick Prisoners in Jail..... 1611 Burial of the Poor..... 1612 Payment of Expenses 1613 Relatives Liable to Support Poor; How Enforced 1614 Certificate of Judge of Probate Evidence of Maintenance.. 1615 Costs Not to be Taxed Against County on Failure 1616 Captains of Vessels Bringing Paupers to the State..... 1617 " Maintenance of (Const., sec. 88).
PARENT and Child (Civil Code)... 5199-5202, 3767-3777, 4505-4511	
PAROL , Granted by Governor (Const., sec. 124).	
PARTIAL Payments (Civil Code).. 4898, 4622, 4850	
PARTICULARS , Bill of (Civil Code) 5326	
PARTIES and Actions (Civil Code) 2440-2506 " in Chancery (Civil Code).3087-3089 " May Prosecute or Defend Their Own Cause (Const., sec. 10).	
PARTITION (Civil Code)5203-5264 " Fences (Civil Code)4247-4250	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
PAWNBROKERS and Pawns (Civil Code)5290-5295	Examination of Applicants..... 2010
“ (Criminal Code) 7517	Decision of County Board Submitted to State Board..... 2011
PAYMENT in Specie by Banks, Suspended (Const., sec. 248).	Applications Forwarded to Auditor 2012
“ of Taxes Under Mistake..... 2345 et seq.	State Board Receives and Examines Applications 2013
PAY of Legislators (Const., sec. 49).	Returns Applications to Auditor 2014
“ of Officers of Legislature (Const., sec. 67).	Compensation of Examiners.... 2015
“ of Public Agents, Servants, Contractors, or Officers Shall Not be Increased (See “Fees,” “Costs,” “Salaries”) (Const., sec. 68).	Warrants for Pensions 2016
PEACE , Breach Not Privileged from Arrest (Const., secs. 56, 192, 275).	Pensions Classified 2017
“ Proceedings (Criminal Code). 7518-7540	Record and List of 2018
“ Soldiers Quartered in House in time of (Const., sec. 28).	Applications Rejected 2019
PEACHES , Dried 2439	Auditor Furnishes Probate Judges Abstract or Copies of List of Pensioners 2020
PEAS 2439	Blanks, Applications, etc..... 2021
PEDDLERS 2361	Blanks and Records 2022
PENAL Laws (Criminal Code).7805, 7806	Pension Prorated According to Classes 2023
PENALTIES and Punishments; Impeachment (Const., sec. 176).	Warrants Drawn by Auditor... 2024
“ How Remitted (Const., sec. 104).	Revision of Roll 2025
“ Remain Unaffected by the Constitution(Schedule 2).	Warrants of Pensioners Who Die Applicant Rejected; Who May Apply a Second Time..... 2027
PENITENTIARY (Criminal Code).. 6479-6372	Causes Not Good Ground for Rejecting Application 2028
PENSIONS FOR CONFEDERATE SOLDIERS AND SAILORS .. 1995-2037	Pension Secured by Misrepresentation Stricken from Record 2029
Special Appropriation 1995	Examiners May Administer Oath 2030
Who Are Entitled to..... 1996	Special Tax Levied 2031
Widows Entitled to 1997	Who are Excluded from Benefit. 2032
County Board of Examiners.... 1998	Transfer of Claim or Warrant.. 2033
Oath of County Examiners..... 1999	Penalty for Unlawful Transfer.. 2034
State Board of Examiners..... 2000	Octogenarian Pensioners of the First Class 2035
Oath of State Examiners..... 2001	Proof of Age of Pensioners.... 2036
Vacancies in Boards 2002	Erroneously Dropped from Roll; How Restored 2037
Meeting of County Board..... 2003	PENSIONS; Tax 2031
Notice of Meeting 2004	PEOPLE , Political Power Inherent in (Const., sec. 2).
Office Hours 2005	“ Government Founded on Their Authority (Const., sec. 2).
Meeting of State Board..... 2006	“ Secure in Their Rights and Person (Const., sec. 5).
Application for Pensions 2007	“ Right to Assemble (Const., sec. 25).
Widow's Application 2008	“ All Free and Independent (Const., sec. 1).
Widow Who was on Pension Roll 2009	PERDIDO RIVER , Boundary of State 83

SECTION.	SECTION.
PERJURY (Criminal Code)7541-7548	Compensation for Services 1644
" as to Election Law (Const.,	Records kept by Board..... 1645
secs. 188-190).	Domestic and Family Remedies
PERPETUATING Testimony (Civil	Excepted from Statute..... 1646
Code)4062-4070	PHYSICIANS, Medicines, etc. (Crim-
PERPETUITY (Civil Code)..3410 et seq.	inal Code) 7564
PERSONAL Property (Civil Code)..	PHYSIOLOGY1685, 1746
3778-3792, 3378 et seq.	PICTURES, Obscene (Criminal Code)
" Property; Exemption (Const.,	7427-7429
secs. 204, 210).	PILOTS and Pilotage (Civil Code)..
PERSON of Color 2	4927-4950
" of Unsound Mind (Giving or	" (Criminal Code) 7811
Selling Liquor to) (Criminal	PISTOLS 2361
Code) 7355	" Concealed (Criminal Code)...
PETITION , Right to (Const., sec.	6421-6425
25).	" Guns, Firearms, etc. (Criminal
PHARMACISTS; EXAMINATION	Code)6893-6897
TO PRACTICE1618-1625	PLANTS and Trees (Horticulture).
Board of 1618	811- 826
Register of Pharmacists 1619	" Mining and Manufacturing,
Registered of Other States..... 1620	Exempt from Municipal Tax-
Examination of Applicants 1621	ation1090 et seq.
Fees for Examination 1622	PLATS and Maps of County..... 157
Other Examinations Allowed ... 1623	" Maps, or Surveys of Towns
Liability for Quality of Drugs.. 1624	(Civil Code)6028-6034
Appropriation 1625	PLAYING Cards 2361
PHARMACISTS (Criminal Code)...	PLEADING and Practice (Civil
7549-7563	Code)5296-5383
PHRASES1- 13	" (Criminal Code)7565-7574
PHYSICIANS; EXAMINATION TO	" and Practice; Actions and Par-
PRACTICE MEDICINE ..1626-1646	ties (Civil Code)2440-2506
Board of Medical Examiners... 1626	" and Practice in Chancery
Branches of Learning 1627	(Civil Code)3087-3228
Application for 1628	PLEAS (Civil Code)5330-5337, 5383
Certificate to Practice 1629	" (Criminal Code)7565-7573
Major Surgery, Certificate of... 1630	PLEDGES (Civil Code)
Other Examinations 1631	3301-3305, 5290-5295
Certificate Filed 1632	PLUMBING; Municipal Regulations
Register of Physicians..... 1633	1286-1306
Board of, Reciprocal With Those	POINTING Weapon at Another
of Other States 1634	(Criminal Code) 6893
Physicians of Adjoining States.. 1635	POISONING Springs, Wells, Reser-
Surgeons; Assistant Surgeons of	voirs, etc. (Criminal Code)..
United States May Practice	7575, 7874
in This State 1636	POISONS; Penal Statute Concerning
Revoking Certificate 1637	(Criminal Code)7575-7578
Investigation by Board..... 1638	" Sales of 7577
Revocation of License 1639	POLICE Commission1231, 1232
New Certificate Issued 1640	" Regulations839 et seq.
Examinations at Montgomery... 1641	POLITICAL Campaigns, Contribu-
Fees for Examination 1642	tions to (Criminal Code)..... 6630
Compensation of Board..... 1643	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.
POLITICAL Organization of State..	121 et seq.
" Organization of State; State and County Boundaries. (Const., secs. 37, 38).	
Chancery Divisions (Const., sec. 145).	
Circuits (Const., sec. 142).	
Great Seal of State (Const., sec. 133).	
Senatorial Districts (Const., sec. 203).	
" Parties	347, 352, 372
" Power Inherent in the People (Const., sec. 2).	
POLLING Jury (Criminal Code)...	7315-7317
POLLING-PLACES	339- 346
POLLS	396, 397
POLL-TAX	2074-2093
" Amount; When and How Paid (Const., sec. 194).	
" Applied to School Funds (Const., secs. 211, 259).	
" Paid Into State Treasury....	2198
" Reported to Superintendent...	2199
" When Due, Delinquent, and Collected	430
POLLUTING Running Streams (Criminal Code)	7575, 7874
" Waters (Criminal Code)..	7863-7873
" Water Supply of City or Town (Criminal Code)	7875
POLYGAMY (Criminal Code) ..	6389-6390
POLYTECHNIC INSTITUTE ..	1899-1911
POOLING (Civil Code)	5497
POOLS, Monopolies, Trusts, and Combines (Criminal Code)	7000, 7579-7582
" Monopolies, Trusts, and Combines (Civil Code)	2487
" or Trusts Prohibited (Const., sec. 103).	
POOE	1598 et seq., 1608-1617
" Maintenance of (Const., sec. 88).	
POORHOUSES, Municipal	1277
POSSE COMITATUS (Criminal Code)	7518, 6271
POSSESSION (Civil Code)	2830
" Actions Concerning (Civil Code)	2453-2465

	SECTION.
POSTHUMOUS Child (Civil Code).	3402, 3759
POTATOES	2439
POUND-PENS; Municipal Regulations	1285
POUNDS (Civil Code)	5881-5898
POWDER	1453
" (Criminal Code)	7583
" Magazines; Explosives	1271
POWER of Attorney (Civil Code)..	3360, 3440, 3818
" Companies (Civil Code) ..	3627-3637
" Political, Inherent in the People (Const., sec. 2).	
POWERS	3
" (Civil Code)	4896, 3423
" of Government Distributed (Const., secs. 42, 43).	
" to Convey, etc. (Civil Code).	3422-3440
PRACTICE and Pleading (Civil Code)	5296-5383
" and Pleading in Chancery (Civil Code)	3087-3228
" of Law (Civil Code)....	2972 et seq.
PRATT CITY Excepted from Rate of Taxation (Const., sec. 216).	
PREACHERS, Conference of (Civil Code)	3593-3596
PRECINCTS	339- 346
" for Elections	339- 346
" How Changed (Const., sec. 104).	
PREFERRED Creditors, of Banks (Const., sec. 250).	
PREFERENCE as to Religion Shall Not be Given by Law (Const., sec. 3).	
PREFERRED Stock; How Issued (Const., sec. 237).	
PREGNANCY (Civil Code)...	3794, 3807
PRELIMINARY Proceedings (Criminal Code)	7584-7615
PREPARATORY School for Mines and Mining	1971-1974
PRESENTMENT of Bills and Notes (Civil Code)	5092-5099
PRESENTMENTS; How Made (Const., secs. 8, 173, 176).	
PRESIDENTIAL Elections	446- 451
" Electors	446-451, 331- 332

	SECTION.		SECTION.
PRESIDENT of Senate	916	PRINTING for Legislature; How Done (Const., sec. 69).	
“ of the Senate, May Administer Oath (Const., sec. 279).		“ Public Documents Provided for	1647-1677
“ of the Senate; Powers and Duties of (Const., sec. 117).		“ Where Done	1657
“ Pro Tem of the Senate; How Elected and Duties of (Const., secs. 51, 127).		PRISONERS (Civil Code).....	5872
PRESIDING Officer Must Sign Bills (Const., sec. 68).		“ (Criminal Code)	6479-6619
PREVIOUS Condition of Servitude; Suffrage Not Denied on Account of (Sec. 38, Const. 1875).		PRIVATE Laws, Defined (Const., sec. 110).	
PRESS , Liberty of (Const., sec. 4).		“ Laws Prohibited (Const., sec. 104).	
PRICES , Current (Civil Code).....	3977	“ Property for Public Use (Const. secs. 23, 235).	
PRIMARY ELECTIONS	512- 537	“ Roads (Civil Code).....	5841-5843
Defined	512	“ Secretary	555 et seq.
How Held	513	PRIVIES , Municipal Regulations...	1293
General Laws Apply	514	PRIVILEGE or License Tax (Const., sec. 221).	
Certificate by Nominating Party	515	“ of Suffrage Protected by Law (Const., sec. 33).	
Certificate, Form and Contents of	516	“ Tax	2361, 2362
Canvassing Board	517	“ Tax in Municipalities.....	1338-1347
Nominations; Where Filed.....	518	PRIVILEGES and Immunities from Arrest (Const., secs. 7, 56, 192, 275).	
Vacancies; How Filled.....	519	“ and Immunities of Citizens (Const., secs. 1-36).	
Notice of	520	“ Not Affected by Religious Principles (Const., sec. 3).	
Qualifications of Voters.....	521	“ of Floor of Legislature (Const., sec. 57).	
Officers of; Powers and Duties of	522- 523	“ and Franchises Shall Not be Exclusive (Const., sec. 22).	
Watchers	524	PRIZE Fighting (Criminal Code)...	7616-7618
Candidates, Name Placed on Ballot	525	PROBABLE Cause (Criminal Code).	6708
Counting; Declaring Result....	526	“ Cause, Ground for Warrant (Const., sec. 5).	
Canvassing Returns	527	PROBATE Clerk (Civil Code)..	5430-5432
Sheriff; Duties of.....	528	“ Courts (Civil Code).....	5410-5442
Arrest of Voters.....	529	“ Courts; Creation and Jurisdiction of (Const., secs. 139, 149).	
Political Party Fixes Rules ...	530	“ Courts, Judges of; Election, Term of Office, etc. (Const., secs. 152, 155).	
Counting Ballots	531	“ Courts, Judges; Impeachment of (Const., sec. 174).	
Campaign Managers	532	“ Courts, Judges Cannot Practice Law (Const., sec. 162).	
General Laws Govern.....	533	“ Courts, Judges; Oath of Office (Const., sec. 279).	
Poll List Provided.....	534		
Ballots; Preparation	535		
Expense of	536		
Contest; Notice of.....	537		
PRIMARY Elections (Criminal Code)	6818-6825		
“ Election Laws (Const., sec. 190).			
PRINCIPAL (Civil Code)...	5405 et seq.		
“ and Surety (Civil Code)..	5384-5409		
PRINCIPALS and Accessories (Criminal Code)	6219, 6220		
PRINTING	1647-1677		
“ (Civil Code)	5181-5192		

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.
PROBATE Courts, Judges, Vacancy in Office; How Filled (Const., sec. 158).	
“ Judge, Assessment of Taxes	2146-2159
“ Judges, When Elected.....	336
PROCEDENDO (Civil Code)...	4726, 4727
PROCEEDINGS , Criminal; How In- stituted (Const., sec. 8).	
PROCESS (Civil Code).....	
“ (Criminal Code)	7470, 7471
“ Compulsory for Witnesses (Const., sec. 6).	
“ Obstructing (Criminal Code).	7708-7711
“ Service on Foreign Corpora- tion (Const., sec. 232).	
“ Style of “the State of Ala- bama” (Const., sec. 170).	
PROCLAMATION of Governor, Call- ing Special Session (Const., sec. 76).	
PRODUCTION of Writings as Evi- dence (Civil Code).....	4058, 4059
PROFANE Language (Criminal Code)	6217
PROFERT (Civil Code).....	5326
PROFESSIONS , Municipal License Required	1338-1347
PROHIBITION Laws; How Enacted (Const., sec. 104).	
“ Law; Violations of (Criminal Code)	7357 et seq.
“ Local Option	492- 511
“ Writ of (Civil Code).....	4864-4872
“ Supreme Court May Issue (Const., sec. 140).	
PROMISES (Civil Code)..	4835, 4840, 2503
PROMISSORY Notes (Civil Code)..	4958-5161
PROMULGATION of Law (Const., sec. 85).	
PROPERTY (Civil Code).....	
“ Foreigners May Possess or In- herit (Const., sec. 84).	4196 et seq., 3860-3909
“ How Exempt from Levy and Sale (Const., secs. 92, 104).	
“ Not Taxed (Const., sec. 91).	

	SECTION.
PROPERTY , Obtaining or Disposing of Fraudulently (Criminal Code)	6920-6934
“ of Office Delivered to Succes- sor	1549-1555
“ Private, Not Taken for Public Use (Const., sec. 23).	
“ Qualification to Vote (Const., sec. 180).	
PROPORTIONATE Taxation (Const., sec. 211).	
PROPS in Mines.....	1020 et seq.
PROSECUTING Attorney (Criminal Code)	7778-7804
PROSECUTIONS Remain Unaffected by the Constitution, Schedule 2.	
“ Shall be in the Name of the State of Alabama (Const., sec. 170).	
“ Mode of (Const., secs. 5, 12).	
“ Rights of Accused in (Const., secs. 5, 12).	
PROSTITUTES (Criminal Code)...	7843
PROSTITUTION (Criminal Code)..	
“ Houses of	7619, 6211 1294
PRO TEM President of the Senate (Const., secs. 51, 127).	
PROTEST (Civil Code).....	
“ of Bills and Notes (Civil Code)	5166 et seq., 5145 et seq. 5100-5108
PROVISIONS Applicable to the Whole Code	1- 13
PUBLICATIONS (Civil Code).....	5181-5192, 3101 et seq.
PUBLIC Accounts, Examiners of.	546- 549
“ Drunkenness (Criminal Code).	6770
“ Examiners of Accounts....	546- 549
“ Health	734 et seq.
“ Highways, Navigable Waters Declared (Const., sec. 24).	
“ Highways, Not Used Without Authority of County or City (Const., sec. 220).	
“ Improvements, Municipal.	1359-1420
“ Lands (Civil Code).....	3334-3337, 3739 et seq.
“ Lands (Const., sec. 257).	
“ Lands; How Donated (Const., sec. 104).	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
PUBLIC Lands, How Donated or Sold (Const., sec. 99).	Matters Ordered to be Printed by Both Houses 1677
“ Lands; Sixteenth Section Lands (Const., sec. 260).	PUBLIC Printing (Const., sec. 69).
“ Money552, 624	“ Roads (Civil Code)5765-5843
“ Offenses (Criminal Code) 6754-6756, 7129	“ Roads (Criminal Code) 7395, 7727-7744
“ Officers, Impeachment of (Const., secs. 173, 176).	“ Schools1678 et seq.
“ Officers; No Person Shall Hold Two Offices of Profit and Trust at Same Time (Const., sec. 280). (See “Officers,” “Offices.”)	“ Schools (Const., secs. 256-270) . (See “Schools.”)
“ Officers; Time of Election .331- 338	“ Trial (Const., sec. 6) .
PUBLIC PRINTING1647-1677	“ Use, Private Property for (Const., sec. 23).
Done Under Contract..... 1647	“ Use, Private Property Taken for (Const., sec. 235).
Classification 1648	“ Uses (Civil Code)3860-3909
Secretary Advertises for Proposals 1649	“ Utilities1421-1435
Proposals in Writing; Bonds.... 1650	“ Works; Board of1233-1250
Maximum Rate 1651	PUNISHMENT, How Fixed (Const., sec. 104).
Proposals Accepted or Rejected. 1652	“ Involuntary Servitude as (Const., sec. 32).
Contract in Pursuance of..... 1653	“ Not Cruel or Unusual (Const., sec. 15).
Contract Approved..... 1654	“ of Members of Legislature (Const., secs. 53, 54).
Contract Declared Forfeited.... 1655	“ When and How Inflicted (Const., sec. 7).
Venue of Actions on Contract... 1656	PUNISHMENTS, Judgments, and Sentences (Criminal Code). 7620-7654
Where Done 1657	PUPILS, Eligible to School ...1755-1757
Paper and Parchment for Blanks 1658	“ Enumeration of1717, 1718
Department Reports 1659	“ Examination of 1758
Contract for Publication of General and Public Laws in a Newspaper 1660	PURCHASE Money (Civil Code).... 5160
Published and Distributed..... 1661	PURGING Registration List (Const., sec. 190).
Contract to be Approved..... 1662	PURSUIT of Happiness, an Inalienable Right (Const., sec. 1).
Acts and Joint Resolutions.... 1663	QUADRENNIAL Sessions of Legislature 902
In Two Volumes; Contents of.. 1664	QUAKERS (Civil Code)..... 4883
Acts Certified; Marginal Notes.. 1665	QUALIFICATIONS for Office of Trust or Profit (Const., sec. 60).
Journals; How Prepared..... 1666	“ of All Executive Officers (Const., secs. 116, 117, 132).
Delivered to Printer..... 1667	“ of Judges of Courts of Record (Const., sec. 154).
Penalty for Not Delivering.... 1668	“ of Registers in Chancery (Const., sec. 163).
Style of Printing and Quality of Paper 1669	“ of Solicitors (Const., sec. 167).
Revenue Laws 1670	“ of Legislators (Const., sec. 47).
When to be Completed..... 1671	
Ten Copies of Bills, etc..... 1672	
Pay; How Made..... 1673	
Payment for Printing Laws and Journals 1674	
For Revenue Laws..... 1675	
For the Commissioner of Agriculture, Railroad Commissioners 1676	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
QUALIFICATIONS of Voting (Const., secs. 180, 182).	RACE, Separate Schools Provided for (Const., secs. 256-270).
" To Hold Office.....1467-1474	" Suffrage Not Denied on Ac- count of (Const., 1875, sec. 38).
QUARANTINE LAWS AND REGU- LATIONS736- 756	" Track 2361
How Enforced 736	RACES, Separate Schools for 1757
Executed by Committees..... 737	RACING (Criminal Code)7728, 7808
Governor Proclaims..... 738	" Horses; Betting on (Criminal Code)7002-7005
Health Officer to Investigate.... 739	RAILROAD Commission (Civil Code)5632-5725
Refusal of Investigation..... 740	" Companies, Assessment Against 2133-2145
Detention Ground 741	" Laborers (Civil Code)....4794-4805
Authority of State Paramount. 742	" Ticket Broker 2361
Officers and Guards Pass Quarant- ine Lines 743	" Tracks in Towns and Cities 1296-1301
Modifications or Additions to Regulations 744	RAILROADS (Civil Code)5473-5631
Trains, Steamboats, etc.; Super- vision of 745	" (Criminal Code).....7655-7695
Pass With Open Windows; Stops 746	" and Canals (Const., secs. 242- 246).
Affidavits to Enter; Places..... 747	" Assessments Against for Pub- lic Improvements 1374
County and Municipal..... 748	" Assessment of Taxes....2133-2145
Enforced by County Board..... 749	" Franchise Tax on.....2364 et seq.
Against Part of County..... 750	" Keep Street in Repair..... 1269
Expense; How Paid.....751, 752	Constitutional Provisions.
Escapes From 753	" Depots; Right to Construct (Const., sec. 243).
Declared; Reported to Officer... 754	" Discrimination and Extortion Prohibited (Const., sec. 243).
Rights of Officers to Board Trains, etc. 755	" Failure to Accept Provisions of Constitution (Const., sec. 246).
Appropriation 756	" Free Passes Not Issued to Ju- dicial or Legislative Officers (Const., sec. 244).
QUARANTINE and Health Laws (Criminal Code)7049-7083	" Future Legislation for (Const., sec. 246).
" and Health Regulations, Muni- cipal; Additional1276	" Property and Franchise of Taken (Const., sec. 23).
QUARTERED, Soldiers in House of Citizens (Const., sec. 28).	" Public Highways and Common Carriers (Const., sec. 242).
QUARTERMASTER934, 936, 994	" Rebates and Rates Regulated (Const., secs. 243, 245).
" General930, 931	" Right to Connect and Cross Other Lines (Const., sec. 242).
QUARRYING Company (Civil Code) 3481	" Right to Construct and Oper- ate Lines (Const., sec. 242).
QUASH; Motion to (Civil Code) 4721, 5366	" Use of Streets (Const., sec. 228).
QUIA TIMET; Bills for (Civil Code)5443-5449	
QUIETING Title (Civil Code) ..5443-5449	
QUI TAM Actions (Civil Code) .2474, 4840	
QUORUM, How Obtained (Const., 58).	
" of Legislature (Const., sec. 52).	
QUO WARRANTO, Actions in; Na- ture of (Civil Code)5450-5472	
RACE, Intermarriage of Prohibited (Const., sec. 102).	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.		SECTION.
RAMS (Civil Code).....	4810-4813	REDEMPTION	2313-2323
RANGE Company	2361	“ (Civil Code)	5746-5759
RAPE (Criminal Code).....	7696-7702	“ From Sale for Public Improve- ments	1406
RATE Regulation (Railroads) (Civil Code)	5520-5562	“ in Municipal Tax Sales.1328 et seq.	
RATES; Maximum (Railroads) (Civil Code)	5565-5592	“ of Lands Sold for Taxes; Sales by the State.....	2313-2328
“ Regulated (Const., secs. 243, 245).		“ Tax Sales	2317 et seq.
RATIFICATION of Constitution; Effect Upon Existing Bonds, Terms of Office, Salaries, In- dictments, Crimes, Actions, Prosecutions, Contracts, etc. (Schedule 1-6).		RE-ENACTMENT of statutes (Const., sec. 45).	
“ of Constitution; Mode of (Schedule 4).		REFERENCES (Civil Code)....	3157-3161
RATIO of Representation in Legis- lature (Const., secs. 199-203, 243).		REFORMATORY AND INDUS- TRIAL SCHOOL	1954-1970
REAL Actions (Civil Code).....	3838-3858, 5307	Corporate Name	1954
“ Estate Agency	2361	Directors	1955
REBATES, Discounts, Drawbacks, etc. (Criminal Code)....	7702-7707	Officers, Agents, and Employes..	1956
“ Regulated (Const., sec. 245).		Bylaws	1957
RECANTATION (Civil Code)..	3749, 3752	Meetings of Board.....	1958
RECEIPTS (Civil Code).....	6131-6136, 3973, 3974	White Children; Ages.....	1959
“ for Taxes	2174	Commitment of Children.....	1960
RECEIVERS (Civil Code).5726-5731, 2840		Appeals	1961
RECEIVING Embezzled Property (Criminal Code)	6841, 6842	Time Kept in Reformatory.....	1962
“ Stolen Property (Criminal Code)	7329	Reports to Legislature.....	1963
RECONSIDERATION of Bills in Legislature (Const., sec. 125).		Criminal Sentenced to School... 1964	
RECONSTRUCTION Acts, pp. 39-58.		May Receive Without Authority 1965	
“ Acts, Veto of, pp. 41-54.		Exclusive Custody of Children.. 1966	
RECORDER Ex Officio.....	1228	Instructions Given Children.... 1967	
RECORDERS' Courts	1213-1229	Treasurer of School; Bond of... 1968	
RECORDING Deeds, etc. (Civil Code)	3367-3395	Detention and Keeping..... 1969	
“ Secretary	556, 557	Convict Children Separated..... 1970	
RECORDS (Civil Code).....	3083, 3273, 5733, 5734	REFUNDING License Tax	2412
“ Judicial (Civil Code).....	5732-5745	“ Municipal Bonds.....	1436-1438
RECOUPMENT and Set-off (Civil Code)	5858-5865, 3865, 4653	“ Taxes	2340-2347
RECTIFIERS	2361	“ Taxes Paid by Mistake.2345 et seq.	
		REFUSING to Aid Officer (Criminal Code)	7708-7711
		REGISTER in Chancery (Civil Code)	3070-3086, 6054 et seq.
		“ Clerks of Court, Removal from Office (Const., sec. 166).	
		“ Appointment to and Term of Office (Const., sec. 163).	
		“ in Chancery; Fees and Compen- sation Shall be Uniform Throughout the State (Const., sec. 163).	
		REGISTRAR	300 et seq.
		REGISTRARS, Appointment, Duties, and Mode of Performance Thereof (Const., secs. 186-196).	
		“ Oath of Office (Const., sec. 186).	

	SECTION.
REGISTRARS , Oath of to Electors (Const., sec. 188).	
“ of Voters	300- 330
REGISTRATION (Civil Code) ..	3368-3381
“ False and Fraudulent Registration, Punishment Therefor; Perjury as to Registration Law (Const., sec. 186).	
“ Books (sub. 7) (Const., secs. 186, 190).	
“ Books, Purging of (Const., sec. 190).	
“ Law; Part Void Does Not Affect Other Parts (Const., sec. 196).	
“ List Must be Sworn to and Filed (Const., sec. 187).	
“ of Deeds, etc. (Civil Code)....	3367-3395
REGISTRATION OF VOTERS ...300- 330	
Registrars; Appointment of.....	300
Term of Office	301
Vacancies	302
Fees, Compensation of.....	303
Oath of	304
Board of; Meetings and Notice Thereof	305
Places of Registration.....	306
Certificate of Registration.....	307
Special; Two or More; Time and Place	308- 310
Examination and Oath of Applicant	311
Persons Qualified to Register....	312
Applicant May be Refused.....	313
Majority of the Board a Quorum	314
Appeal from	315
Not Required to Re-register....	316
Books, Forms, and Blanks.....	317
List of Names	318
List of Voters and Electors.....	319
Re-registered; Change of Residence	320
Duplicate Certificate.....	321
Oath Required	322
Purging List	323
Notice and Hearing	324
Time and Place of Meeting....	325
Proceedings on Hearing.....	326
Books Kept as to Names Stricken	327
Books for Registrars	328
Duty of Registrars as to Names Stricken from List.....	329

	SECTION.
Reason for Electors Taken from List	330
REGISTRATION ; Persons Disqualified from Registering or Voting (Const., secs. 182, 184).	
“ Who Entitled to Register (Const., secs. 180, 196).	
REHEARING and New Trial (Civil Code)	5371-5381
RELATIONSHIP (Civil Code).....	3757, 4877, 4878
RELATOR (Civil Code)	5459
RELATIVES Liable to Support Poor 1614	
RELEASE (Civil Code)...3974, 3753, 6049	
RELIGION (Civil Code)	3613-3618, 4881-4883
“ No Preference to Denomination, Sect, Society, or Form of Worship (Const., sec. 3).	
“ Not Established by Law (Const., sec. 3).	
“ Property Used for Not Taxed (Const., sec. 91).	
RELIGIOUS Principles Shall Not Affect Privileges and Capacities (Const., sec. 3).	
“ Societies (Civil Code).....	3613-3618, 3622-3626
“ Test Not Required for Office or Trust (Const., sec. 3).	
“ Worship, Disturbing (Criminal Code)	6767-6769
RELINQUISHMENT (Civil Code)..	3818-3823
REMAINDERS (Civil Code).....	3420, 3385 et seq.
REMEDIAL Writs (Civil Code).4864-4872	
“ Writs, Power of Supreme Court to Issue (Const., sec. 140).	
REMEDIES Shall Not be Impaired, Destroyed, Nor Revived (Const., sec. 95).	
REMEDY	10
REMITTING Fines, Forfeitures, and Penalties; How Authorized (Const., sec. 104).	
REMONSTRANCE , Right of Preserved to Citizen (Const., sec. 25).	
REMOVAL of Governor (Const., sec. 127).	
“ of Officers (Const., secs. 173-176).	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.		SECTION.
REMOVAL of Prisoners (Criminal Code)	6638, 6642-6644	REPRIEVES (Criminal Code).....	7510-7516, 7653, 7654
RENTING on Shares (Civil Code)...	4742, 4743	REQUISITION for Felons (Criminal Code)	6939-6953
RENT , Not Subject to Taxation (Const., sec. 211).		RESCUE (Criminal Code)	6870
RENTS (Civil Code)	4731-4753, 3855	RESIDENCE	290, 295
REPEAL	10	“ Between Counties or Precincts	297
REPEAL of Law; Laws Not Inconsistent with Constitution Not Repealed (Schedule 1).		“ Executive Officer Shall Reside at Capital (Const., sec. 118).	
“ of Local Law Void Unless Notice Given (Const., sec. 107).		“ Exempt (Const., secs. 204-210).	
“ of Part of General Law Shall Not Create Local Law (Const., sec. 105).		“ in Two Counties	296
REPEALING Sections of Code	10, 13	“ of Officers	1468
REPLEVIN (Detinue) (Civil Code)	3778-3792	“ Temporary Absence	295
REPLEVY of Property Attached (Civil Code)	2955-2957	“ Temporary Absence Shall Not Cause Forfeiture of (Const., sec. 31).	
REPLICATION (Civil Code)..	5338, 3116	“ to Entitle a Person to Vote (Const., sec. 178).	
REPORTER of Supreme Court (Civil Code)	5995-6015	RESIDENTS , Declared Citizens (sec. 2, Const. 1875).	
REPORTS of Committees; How Adopted (Const., sec. 64).		RESIGNATION	1556-1568
“ of Supreme Court (Civil Code)	6007-6015	“ (Civil Code)	4452
REPRESENTATION (Civil Code)..	4292	“ of Governor (Const., sec. 127).	
“ (Const., secs. 197-203).		RESIGNATIONS from Office.....	1556-1558, 1563 et seq.
REPRESENTATIVES	900- 928	RESISTING Process (Criminal Code)	7708-7711
“ and Senators, Apportioned Among the Several Counties (Const., secs. 199-203).		RESOLUTIONS of Municipalities..	1251-1259
“ and Senators; Number of (Const., secs. 197, 198).		RESTAURANT KEEPERS’ Lien (Civil Code)	4827, 4828
“ Arrest of (Const., sec. 56).		RESTITUTION (Civil Code) ..	4269, 3784
“ Bribery of (Const., sec. 79).		RETAILERS ; Licenses	2361
“ Number and Apportionment of to the Several Counties (Const., sec. 202).		“ (Civil Code)	5760-5764
“ Number of (Const., sec. 50).		RETURNING Officer of Election....	414, 418, 419, 347
“ Office; Vacancies; How Filled (Const., sec. 46).		RETURN of Bills by Governor (Const., sec. 125).	
“ Pay of (Const., sec. 49).		“ of Process (Civil Code).....	5301-5320, 4097-4133
“ Qualification of (Const., sec. 47).		RETURNS of Elections to Secretary of State (Const., sec. 193).	
“ When and How Elected (Const., sec. 46).		REVENUE and Taxation	2060-2412
REPRIEVE , Granted by Governor (Const., sec. 124).		“ Offenses Concerning (Criminal Code)	7712-7720
		“ Bills Must Originate in House (Const., sec. 70).	
		“ Bills Excepted from Provision that Bill Shall Contain but One Subject (Const., sec. 45).	
		“ Bills; When and How Passed (Const., sec. 70).	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.
REVENUE Laws Printed in Pamphlet	2351
“ Laws Printed Separately	1670
“ Municipalities	1311-1337
REVERSION (Civil Code) ...	3385, 3389
REVIEW , Bill of (Civil Code).	3177, 3178
REVISION of Laws Required (Const., sec. 85).	
“ of Statutes, Bills for (Const., sec. 45).	
REVIVAL of Action (Civil Code)..	2495-2501
“ of Remedies, Actions, and Suits (Const., sec. 95).	
“ of Statutes (Const., sec. 45).	
REVIVOR (Civil Code).....	4147-4155, 4685, 4686, 4688-4871
REVOCAION of Charter of Corporation (Const., sec. 238).	
REWARD (Criminal Code) ...	6542, 6939
RIGHT of Property (Civil Code)..	6039-6049
“ of Way (Civil Code)....	3860-3909
“ of Way Taken (Const., sec. 23).	
“ of Way Donated by State (Const., sec. 99).	
RIGHTS ; Enumeration of Does Not Deny Others (Const., sec. 36).	
“ Bill of (Const., secs. 1-36).	
RIOTS ; Places of Business May be Closed	1454
“ Routs, and Unlawful Assemblies (Criminal Code)	7721-7726, 7400, 7401
RIPARIAN Rights (Civil Code)..	6143-6150
“ (Criminal Code)	7863-7875
RIVERS , Are Public Highways (Const., sec. 24).	
“ Streams, etc.; Offenses Concerning (Criminal Code)..	7863-7875
“ Watercourses, etc. (Civil Code)	6143-6150
ROAD Duty, Exemptions from; Inhabitants of Municipality ...	1336
“ Duty; How Person Exempt (Const., sec. 104).	
“ Law of (Civil Code).....	5840
ROADS , Private (Civil Code)..	5841-5843
“ Public (Civil Code)	5765-5843
“ Public (Criminal Code)	7727-7745, 7395
ROBBERY (Criminal Code) ...	7746-7749

	SECTION.
ROLLING-STOCK (Civil Code).	3393-3395
RULE in Shelley's Case (Civil Code)	3403
RULES (Civil Code)	3227, 3228
“ of Court (Last Part of Civil Code).	
“ of Each House of the Legislature (Const., sec. 53).	
SABBATH , Violations of (Criminal Code)	7814-7819
SAFETY Lamps in Mines.....	1022
SAILORS (Navigation) (Civil Code)	4901-4957
SALARIES	1569-1571
See “Officers.”	
Constitutional Provisions.	
“ and Fees of the State Executive Officers (Const., sec. 137).	
“ Deduction from for Neglect of Duty (Const., sec. 87).	
“ Executive Officers, and Compensation; Amount, How Fixed (Const., secs. 118, 119).	
“ Fees, etc., of Municipal Officers; Employes	1255 et seq.
“ Fees, and Compensation of Solicitors (Const., sec. 167).	
“ Fees or Compensation of Civil Officer Shall Not be Increased or Diminished During the Term for Which He is Elected (Const., sec. 281).	
“ Fees and Compensation of Officers Reduced for Neglect of Duty (Const., sec. 87).	
“ of Deceased Officers (Const., sec. 97).	
“ of Incumbent Officers Not Affected by Ratification of Constitution (Schedule 6).	
“ of Judges Shall Not be Diminished During Term of Office (Const., sec. 150).	
“ of Retired Officers (Const., sec. 98).	
SALARY of Mayor	1456
SALE of Abutting Property for Public Improvements.....	1400 et seq.
“ of Estates of Decedents (Civil Code)	2602-2665
“ of Farm Products, Regulated (Criminal Code)	6878, 6879

SECTION.	SECTION.
SALE of Personalty for Taxes. 2176 et seq.	SCHEDULE of Constitution. See
" or Denial of Justice (Const.,	Criminal Code.
sec. 13).	SCHOLASTIC Periods 1759
SALES (Civil Code)	SCHOOL Age of Children, Between
3334-3337, 5222-5231, 5239-5252	Seven and Twenty-One
" for Municipal Taxes....1311-1337	(Const., sec. 256).
" Fraudulent or Void (Civil	" Book Commission1805-1850
Code)4287-4295, 3334-3346	" Books, Selection of.....1805-1850
" in Chancery (Civil Code).3223-3226	" Census1717, 1718
" Public; Taxes First Paid..... 2356	" Children Eligible1755-1757
SALESWOMEN and Female Clerks	" Districts1691-1696
(Criminal Code) 6857	" Districts; How Established
SALT Lands and Springs.....883- 887	(Const., sec. 104).
" Springs883- 887	" Districts; Municipal 1356
SALVAGE (Civil Code)5844-5857	" Funds1678-1688, 1760-1780
SAMPLING Cotton (Civil Code)...	" Funds; Four Per Cent Applied
3730-3734	to Payment of Teachers
SANITARY Regulations	(Const., sec. 261).
697-792, 1302-1308	" Fund; How Apportioned
SANATORIUM FOR CONSUMPTION	(Const., sec. 256).
AND TUBERCULOSIS ..771- 792	SCHOOL HOUSES1975-1993
Established 771	Appropriation 1975
Board of Trustees 772	Limitation of 1976
Members of Board; Appoint-	Application of 1977
ment, Election, and Terms	Filing and Submitting..... 1978
of Office 773	Consideration of Applications.. 1979
Vacancies; How Filled 774	Record of Consideration..... 1980
Superintendent of Sanatorium.. 775	Amount of Appropriation..... 1981
Assistants, Agents, and Servants 776	Plans and Specifications 1982
Land and Site for 777	Area of School House Lot..... 1983
Announcing Opening of Sanito-	County Board Certifies to State. 1984
rium 778	Warrant; Auditor Issues Same.. 1985
Superintendent and Trustees ... 779	Delivery and Forwarding..... 1986
Patients Classified 780	Statements Filed and Kept..... 1987
Whites and Negroes Separated. 781	Receipts for Warrants..... 1988
Men and Women Separated.... 782	Payment of Warrant..... 1989
Farm and Dairy 783	Account With Each County..... 1990
Pay Patients and State Patients 784	Warrants Not Delivered 1991
How Admitted 785	Unexpended Balance 1992
Appropriation for 786	Warrants; How Used 1993
Treasurer and Steward 787	SCHOOL Lands1781 et seq.
Accounts and Books 788	" Lands, Funds of, Application
Officers Must Reside in Sanito-	of (Const., sec. 257).
rium 789	" Law; Municipalities Exempt.. 1357
Rules of Trustees 790	" Property, Municipal; Power to
Compensation of Trustees 791	Purchase 1458
Reports to Governor 792	" Property Not Taxed (Const.,
SATISFACTION (Civil Code).....	sec. 91).
4141, 4142, 4898, 4900	SCHOOLS1678-1993
SCALES , Weights, Measures, etc....	Apportionment of School Fund;
1270, 2439	Disbursement1760-1780
SCALPERS 2361	Boards of Education; Election,
	Powers, and Duties of ..1712-1716

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SCHOOLS—Continued.	SECTION.	SCHOOLS—Continued.	SECTION.
Census Enumeration of Children..	1717-1718	Effect of Certificate of Purchase	1793
Children and Pupils Eligible to Public Schools	1755-1757	Revesting of Title	1794
County Superintendent of Educa- tion	1702-1711	Fines to go to School Fund....	1795
One Elected for Each County...	1702	Patent	1796
Term of Office; Removal.....	1703	Issue of Patent by Secretary of State; Correction of Mis- take	1797
Oath of Office and Bond.....	1704	Issue of Patents in Other Cases.	1798
Approval and Record of Bond... 1705		Collection of Past-Due Notes... 1799	
New or Additional Bond; Effect of Notice to Give.....	1706	Appointment of Agents	1800
His Duties	1707	Township Credited with Collec- tion on Notes	1801
Forfeiture for Failure to Make Annual Reports	1708	Proceeds of	1802
Books and Accounts; Examina- tion	1709	Lease	1803
Vacancies; How Filled; Term, etc., of Appointees	1710	Compromises	1804
Compensation of	1711	Officers and Boards	1680
Districts and Re-Districting Boards 1691-1696		Scholastic Periods	1756
How Changed	1691	Special Tax Election	1851-1860
Counties and Districts	1692	Superintendent of Education 1681-1688	
Cities and Towns; Separate School Districts	1693	Term of Office; Salary.....	1681
Not Affected by County Lines.. 1694		Oath of Office and Bond.....	1682
Funds; How Paid	1695	Office and Books; Papers and Records	1683
Repeal	1696	Clerks and Their Salaries.....	1684
District Trustees; Election, Pow- ers, and Duties of	1697-1701	Duties of	1685
Graded Schools Increase Number of Trustees	1700	Report to Governor; Contents... 1686	
Municipal School District	1701	Report to be Printed and Dis- tributed	1687
Examinations in Public Schools ... 1758		Vacancy Filled by Governor; Term, etc., of Appointee... 1688	
Fund	1678, 1679	Teachers' Institutes	1751-1754
Appropriations	1678	Teachers; Qualifications, License, Powers, and Duties of ..1719-1750	
When Accrue	1679	Board of Examiners.....	1719
Lands; Lease and Sale1781-1804		Meetings of Examiners	1720
What Are	1781	List of Questions	1721
Sale of	1782	Times for	1722
Consent of Inhabitants	1783	Special Examinations	1723
Resale	1784	Examinations in Counties	1724
Proceeds of Sale	1785	Examination Fees	1725
Notes Taken	1786	Compensation of Examiners.1726-1727	
Manner and Terms of Sale.... 1787		Shall Not Receive Assistance.. 1728	
Timber Lots Reserved	1788	Statement Signed by Teachers.. 1729	
Timber Lots; How Used	1789	Good Moral Character	1730
Penalty for Injuries to Timber. 1790		Profane Language or Intoxicants 1731	
Fines Paid for School Fund.... 1791		Grades of Certificates	1732
Certificate of Purchase	1792	Percentage of Questions	1733
		Branches of Learning	1734
		Examination Shall be Written; Kind of Paper and Ink to be Used	1735

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SCHOOLS—Continued.	SECTION.	SECTION.
Examination Papers Delivered to Examiner; Transmission to Board	1736	SEAL
Board Examines and Grades Papers	1737	“ (Civil Code)
Certificates Issued	1738	“ of the City or Town...1192, sub. 6.
Examination Papers Kept on File Six Months	1739	“ of the State
Lifetime of Certificates	1740	“ Style and Use of (Const., secs. 133-135).
Life Certificates	1741	SEAMEN (Civil Code)
Forfeiture of Life Certificate... 1742		SEARCH , People Secure Against (Const., sec. 5).
Revoking Certificate	1743	“ Warrants for (Const., sec. 5).
Register of Licensed Teachers.. 1744		SEARCH-WARRANTS
When Article Effective	1745	“ (Criminal Code) ...7756-7775, 7321
Instruction as to the Nature of Alcoholic Drinks and Nar- cotics.	1746	SEAT of Government; How Changed (Const., sec 78).
Teaching Agriculture in Public Schools	1747	“ of Counties
Register Kept by Teacher and Submitted	1748	SECESSION , see Const. 1875, Art. 1, Sec. 35.
Monthly Report; Not Entitled to Compensation Until For- warded	1749	SECRETARIES of Governor ..555 et seq.
To be Paid Monthly	1750	SECRETARY of Senate
Townships Abolished	1689	SECRETARY OF STATE
Townships and School Districts In- corporated	1690	Duties of
SCHOOLS (Const., secs. 256-270).		Chief Clerk and Stenographer, Salary of
“ (Criminal Code) ...6769, 7750-7755		Bond of
“ Census for; When and How Taken (Const., sec. 268).		Salary
“ City and Town; Control of... 1701		Fees Charged by Him
“ Graded	1700	Duties Under Constitution
“ Locations of, Which Shall Not be Changed (Const., sec. 267).		Custody of Books
“ Municipal	1348-1358	Dispose of Alabama Reports ... 580
“ Sectarian or Denominational, Not Provided for (Const., sec. 263).		Dispose of Acts, Journals, etc... 581
“ Separate for White and Col- ored Race Maintained (Const., secs. 256, 270).		Files List of Books
“ Special Tax Not Exceeding Ten Per Cent Authorized (Const., sec. 269).		Keeps Accounts
“ Tax	1851-1860	Liability on Expiration of Office 584
“ Teachers; Payment of (Const., sec. 261).		Receipt of Doorkeeper Sufficient Voucher for Books, etc..... 585
SCIRE FACIAS (Civil Code)...4148-4155		Distributes Acts and Resolutions 586
		Copies Sent Judges for Officers; Remaining Sold
		Duplicate Copies Furnished to Judicial Officers
		Dispose of Codes
		Supply Codes, Reports, etc., to Counties
		Retains Fifty Copies of Jour- nals; Distributes Remainder 591
		Distribution to Certain Schools. 592
		Books and Papers in Relation to Public Lands
		Acts of Congress Distributed... 594
		Distribution of Other Books and Documents
		Preservation of Fuel

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
SECRETARY of State, Attorney-General, Auditor, Treasurer, Superintendent of Education, Commissioner of Agriculture and Industries; Eligibility of (Const., sec. 132).	SENATORS and Representatives Apportioned Among the Several Counties (Const., secs. 199-203).
“ of State, Duties of (Const., secs. 133-135).	“ and Representatives; Number of (Const., secs. 197, 198).
“ of State; Returns of Elections as to Constitutional Amendment Made to Him (Const., sec. 284).	“ and Representatives; Terms of Office (Const., sec. 46).
“ of State Shall Make Reports to the Governor (Const., sec. 137).	“ Arrest of (Const., sec. 56).
“ of State; When and How Elected (Const., secs. 114-116).	“ Bribery of (Const., sec. 79).
“ of Supreme Court (Civil Code) 5968-5970	“ Election of331- 333
SECRET Trusts (Civil Code)..4287 et seq.	“ (U. S.), Const. U. S., pp. 150-152.
SECT ; No Preference (Const., sec. 3).	“ How and When Elected (Const., sec. 46).
SECTARIAN Schools, Not Provided for (Const., sec. 263).	“ Number of (Const., sec. 50).
SECURITIES1517, 1520	“ Office; Vacancy, How Filled (Const., sec. 46).
“ (Civil Code)4556 et seq.	“ Pay of (Const., sec. 49).
SECURITY , Collateral (Civil Code). 3301-3305	“ Qualification of (Const., sec. 47).
“ for Costs (Civil Code)..... 2872, 3687 et seq.	SENTENCE (Criminal Code)...7620-7652
SEDUCTION (Civil Code) ...2482, 2483	“ of Death (Criminal Code).... 7639-7652
“ (Criminal Code) 7776	SENTENCES and Judgments in Criminal Cases (Criminal Code)7620-7654
SEED COTTON (Criminal Code) .. 6878	SEPARATE Estate (Civil Code)... 4486-4504
SEIZIN , Livery of (Civil Code).... 3364	“ School Districts1701, 1745
SEIZURE (Civil Code) 3194-3200, 5402-5404	“ Schools for White and Colored Race Maintained (Const., secs. 256, 270).
“ People Secure Against (Const., sec. 5).	SEQUESTRATION (Civil Code).... 3213, 3216, 3074
SELLING Mortgaged Property (Criminal Code) 7423	SERVANTS (Civil Code) 3910-3912
SENATE900- 928	“ (Criminal Code)6845-6857
“ Election of Trustees by (Const., secs. 264-266).	“ of Legislature (Const., sec. 67).
“ Judicial Power Vested in (Const., sec. 139).	SERVICE of Process on Foreign Corporation (Const., sec. 232).
“ President Pro Tem (Const., secs. 51, 127).	SERVITUDE , Only as Punishment (Const., sec. 32).
“ State; Number of 901	SESSIONS of Legislature, Special (Const., sec. 76).
SENATORIAL Districts 901	SET-OFF and Recoupment (Civil Code)5858-5865
“ Districts; Division and Enumeration of (Const., secs. 200-203).	SETTING Cases for Trial (Criminal Code) 7838
	SETTLEMENTS and Compromise (Civil Code) 3974
	“ of Estates of Decedents (Civil Code)2666-2742

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.		SECTION.
SEVERANCE (Criminal Code)	7842	SITES for County; Changed and Located	175- 207
SEWERAGE ; Municipal Regulations	1290, 1292	SIXTEENTH Section Lands..1781 et seq.	
SEWERS and Drainage	1302-1308, 1283, 1292	" Section Lands (Const., sec. 260).	
SEWING Machine Company	2361	SKATING Rink	2361
SHAREHOLDER , Individually Liable for Unpaid Stock (Const., sec. 236).		SKIPPS , Boats, etc. (Criminal Code) 6392	
SHAREHOLDERS (Civil Code)	3467-3480, 4311	SLANDER , Libel, Defamation (Civil Code)	3745-3753
SHARES of Corporations; Taxes... 2182		" (Criminal Code)	7338-7341
SHEEP , Dogs Killing (Civil Code).. 2832		SLAUGHTER Houses, Municipal Regulations	1278, 1279
SHEEP-KILLING Dog or Hog (Criminal Code)	6236	SLAVERY Denied (Const., sec. 32).	
SHELLEY'S Case (Civil Code).3403-3405		SLEEPING Car	2361
SHERIFF (Civil Code)	5866-5880	" Car Company	2087
" (Criminal Code)	6638-6647	SLEIGHT of Hand	2361
SHERIFFS , Eligibility of; Election of; Terms of Office; Duties and Impeachment of (Const., sec. 138).		SMITH, EUGENE A. , State Geologist	689
" One of Executive Department (Const., sec. 112).		SOCIAL and Literary Societies (Civil Code)	3621-3626
" Impeachment of (Const., sec. 174).		SOCIETIES (Civil Code).....	3621-3626
" Oath of Office (Const., sec. 279).		SOCIETY ; No Preference (Const., sec. 3).	
SHILOH Monument	1043	SODOMY (Criminal Code)	6746
SHIP Channel (Criminal Code).7869-7871		SOIL ; Analysis	76- 79
SHIPS (Civil Code)	4901-4957	SOIL SURVEYS AND ANALYSIS	76- 79
SHOOTING Across Road (Criminal Code)	7727	Surveyors Appointed; Duties of. 76	
" Gallery	2361	Surveys, Mapped and Printed.. 77	
SHRUBBERY (Horticulture) ..	811- 826	State Co-operates with United States	78
SICK or Wounded Persons Cared for 1460		Appropriation for	79
SIDESHOW	2361	SOLDIERS (Civil Code)	6178
SIDEWALKS	1359-1420, 1260-1295	" (Criminal Code)	7777
" and Streets; Tax as to Improvements of (Const., sec. 223).		SOLDIERS AND SAILORS	1995-2037
" Improvement by Assessment.. 1359-1420		Home for Confederate Soldiers and Sailors	2038-2053
SIGNALS ; Railroads, etc. (Civil Code)	5478 et seq.	Proof of Service in Confederate Army	2054, 2055
SIGNATURE	1	Affidavit and Proof of Service.. 2054	
" (Civil Code)	3355	Evidence; When Reduced to Writing	2055
SIGNBOARDS (Civil Code)	5797, 5801, 5475	SOLDIERS and Sailors, Pensions for	1995-2055
SIGNING of Bills (Const., sec. 66).		" Data	803
		" Not Quartered in Houses (Const., sec. 28).	
		SOLICITOR (Civil Code)..5931, 5932, 3004	
		" (Criminal Code)	7778-7804
		" Pro Tem (Criminal Code)..7787-7789	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.		SECTION.
SOLICITORS Cannot be Sureties ..	1490	SPEEDY Public Trial (Const., sec.	
" Election, Mode of; Eligibility		6).	
of; Fees and Compensation		SPIRITUOUS Liquors	492-511, 2361
of; Terms of Office (Const.,		SPRINGS , Poisoning (Criminal Code):	
sec. 167).		7575 et seq.	
" Impeachment of (Const., sec.		STABLE Keepers (Civil Code)..	4806, 4807
174).		STAIRWAYS on Streets and Side-	
" Oath of Office (Const., sec.		walks	1266
279).		STALLIONS (Civil Code)	
" Term of Office	1465	3955, 3956, 4810-4813	
" When Elected	337	STANDING Army Denied (Const.,	
SOVEREIGNTY of State	2056-2059	sec. 27).	
SPEAKER of House of Representa-		STARE DECISIS (Civil Code)	5965
tives	900 et seq.	STATE	83-85, 2413-2428
" How Signs Bills (Const., sec.		" Action by (Civil Code)...	2440-2450
66).		" Admitted into Union....	pp. 35- 39
" When Performs Duties of Gov-		" a Party to Prosecutions	
ernor (Const., sec. 127).		(Const., sec. 170).	
" of House; How Elected and		" Annexation of Territory to	
Duties of (Const., sec. 51).		(Const., sec. 90).	
" of House; Duties Purely Minis-		" Auditor	597- 615
terial (Const., sec. 115).		" Bonded Debt, Adjustment of	
SPECIAL Charges to Grand Jury as		(Const., sec. 283).	
to Corrupt Solicitation of Leg-		" Boundaries (Const., sec. 37).	
islators (Const., sec. 81).		" Boundaries	83- 85
" (Criminal Code)	7286	" Chemist	46
" Charges to Grand Jury as to		" Debts or Obligation Due it	
Free Passes (Const., sec.		Shall Not be Released	
244).		(Const., sec. 100).	
" Elections	439- 445	" (Escheats to) (Civil Code)...	
" Laws Defined (Const., sec.		3918-3926	
110).		" Lands; How Donated or Sold	
" Laws Prohibited (Const., sec.		(Const., secs. 99, 104).	
104).		" No New Debts Shall be In-	
" Privileges and Immunities Pro-		curred Against (Const., sec.	
hibited (Const., sec. 22).		213).	
" Road or Bridge Tax; One-Half		" Not a Defendant (Const., sec.	
to Municipality	1335	14).	
" Sessions of Legislature; What		" Right to Bear Arms in Defense	
Matters Considered (Const.,		of (Const., sec. 26).	
sec. 76).		" Property of Not Taxed (Const.,	
" Sessions of Legislatures Called		sec. 91).	
by Governor (Const., sec.		" Seal; Style and Use of (Const.,	
122).		secs. 133-135).	
" Taxes; How Kept and Paid		STATE'S Indebtedness, Interest on.	
Over	2207	626 et seq.	
" Tax for Courthouse....	138 et seq.	" Seal	1994
" Tax for Public Schools...1851-1860		" Shall Not be Stockholder in	
" Venires (Criminal Code)..7257-7269		Bank (Const., sec. 253).	
SPECIE Payment; Suspension of by		" Shall Not Engage in Internal	
Bank (Const., sec. 248).		Improvement or Lend Money	
SPEECH Shall Not be Curtailed or		(Const., sec. 93).	
Restrained (Const., sec. 4).			

	SECTION.		SECTION.
STATE Shall Not Engage in Private Enterprise (Const., secs. 93, 94).		STOCK Law Districts (Criminal Code)	7813
“ Shall Not Lend Its Credit to Bank (Const., sec. 253).		“ Law Districts; Municipalities.	1285
State; Sovereignty and Jurisdiction of	2056-2059	“ Law Districts (Const., sec. 104).	
“ Tax Commission	2210-2267	“ of Corporations, Taxes on.....	2188
“ Treasurer	616-633, 1780	“ of Corporations How Issued (Const., sec. 234).	
“ Troops	929- 998	“ of Corporations, Preferred; How Issued (Const., sec. 237).	
STATIONERY	2359, 153, 213	“ and Bonded Indebtedness of Corporations; How Increased (Const., sec. 234).	
“ (Civil Code)	3318, 5879, 3079, 3080	“ Fictitious Issue (Const., sec. 234).	
“ for Legislature, How Acquired (Const., sec. 69).		STOCKHOLDERS and Stocks (Civil Code)	3467-3480, 4311, 5664
STATION for Experiments.....	53- 69	“ Liability, Extent of (Const., sec. 236).	
STATISTICAL Register	802	STORAGE by Warehouseman (Civil Code)	6123-6142
STATISTICS of Cotton Ginners..	113- 120	STOVE Company	2361
STATUTE of Frauds (Civil Code)..	4287-4299	STRAYS (Civil Code).....	3927-3954
“ of Limitations (Civil Code)..	4830-4841	STREAMS of Water (Civil Code)..	6143-6150
“ of Limitations (Criminal Code)	7344-7351	“ of Water (Criminal Code).	7863-7871
“ of Limitations (Const., sec. 104).		STREET Cars, Assessments Against for Public Improvements.....	1374
“ of Uses (Civil Code).....	3408	“ Crossings for Cars.....	1272
STATUTES	586-591, 1660-1662	“ Improvements .1359-1420, 1260-1295	
“ (Criminal Code)	7805, 7806	“ Railroad; Municipal Regulation	1267-1269
“ How Amended, Reviewed, Re-enacted, or Extended (Const., sec. 45).		“ Railroads Running on Track of Another	1267
“ Must be Signed by Governor (Const., sec. 125).		“ Railway Companies (Civil Code).....	3501, 3481 et seq.
“ Style, Subject (Const., sec. 45).		“ Railways, Use of Streets (Const., sec. 228).	
STATUTORY Right of Redemption (Civil Code)	5746-5759	“ and Bridges; Offenses Concerning (Criminal Code)....	7727-7745
STEALING (Larceny) (Criminal Code)	7324-7337	“ and Highways; Grants of Use or Franchise Longer Than Thirty Years Prohibited (Const., sec. 228).	
STEAMBOATS (Civil Code).....	4790, 5478, 5479, 4901-4957	“ and Highways; Public Utilities on; Damages to Abutting Owners (Const., sec. 227).	
“ (Criminal Code)	7807-7812	“ and Highways, Use of (Const., sec. 220).	
STOCK , Animals (Civil Code).....	2832 et seq., 4240 et seq.	“ Improvements by Assessments	1359-1420
“ Quarantine	757- 770	“ Vacation of	1297
“ Killing by Railroads (Civil Code)	5508-5513		
“ Killing, Trespassing (Civil Code)	4240-4250		
“ Law Districts (Civil Code)...	5881-5898		

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.
STUMPAGE Lien (Civil Code)	4814-4817
STYLE and Conclusion of Criminal Process (Const., sec. 170).	
" of Laws, "Be it Enacted by the Legislature of Alabama" (Const., sec. 45).	
SUBJECT of Bills (Const., sec. 45).	
SUBPOENAS (Civil Code).....	
3151, 3152, 4020 et seq.	
" DUCES TECUM (Civil Code)	4060, 4061
" for Witnesses (Civil Code)..	4020-4029
SUBROGATION (Civil Code).....	
5384 et seq., 4091	
SUBSCRIBING Witness (Civil Code)	
3355, 3357, 4006, 6172	
" Witness, Waiver of Homestead Exemption Must be Attested by (Const., sec. 210).	
SUBSCRIPTION	1
SUBSTITUTION of Records (Civil Code)	5738-5745
SUBTENANT (Civil Code)....	4734-4753
SUCCESSION in Office of Governor (Const., sec. 127).	
SUCCESSORS in Office.....	
1549-1568, 1467-1474	
SUCCESSOR in Office, Entitled to Books and Papers.....	1549-1555
SUFFERANCE (Civil Code)	4753
SUFFRAGE	290, 293
" and Elections (Const., secs. 177, 196).	
" Right of; Who Are Entitled or May be Entitled to Vote (Const., secs. 177-184).	
" Educational or Property Qualifications as to Denied (Const., 1875, sec. 38).	
" Shall be Protected (Const., sec. 33).	
SUIT (Civil Code).....	2440-2506
" (Criminal Code)	6936-6938
SUITS Against Municipalities for Negligent Acts.....	1274
" Not Revived, Impaired, or Destroyed (Const., sec. 95).	
" Remain Unaffected by the Constitution, Schedule 2.	

	SECTION.
SUMMARY Judgments (Civil Code).	5899-5947
SUMMER SCHOOL	1894-1898
Summer School at University	
Established	1894
Annual Appropriation	1895
Appropriation; How and When Paid	1896
Matriculation or Tuition Fee... ..	1897
Examinations Conducted by State Board of Examiners Annually	1898
SUMMONS (Civil Code).....	
3097 et seq., 5296 et seq.	
SUNDAY (Civil Code)....	3346, 5144, 2938
" Violations (Criminal Code)...	7814-7819
SUNSET and Sunrise (Criminal Code)	6878
SUPERINTENDENT of Education.	
1681-1688, 1702-1711	
" Eligibility of (Const., sec. 132).	
" of Education Ex Officio Trustee for University and Auburn (Const., sec. 264).	
" of Education, Impeachment of (Const., sec. 175).	
" of Education Shall Make Report to the Governor (Const., sec. 137).	
" of Education, Supervision of Public Schools (Const., sec. 262).	
" of Education, When and How Elected (Const., secs. 114, 116).	
" of Schools in Municipality....	1354
SUPERSEDEAS (Civil Code).....	
2872-2880, 5374-5381	
SUPPLY Car	2361
SUPREME Court (Civil Code)..	5948-6015
" Court, Judges Enumerated and Denominated (Const., sec. 151).	
" Justices, Election; Mode of (Const., sec. 156).	
" Court, Jurisdiction and Powers of (Const., sec. 140).	
" Court, Where Held (Const., sec. 141).	
SURETIES	1540 et seq.
" (Criminal Code)	6846
" Who Not Sufficient	1489, 1490

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.
SURETY and Principal (Civil Code)	
5384-5409	
" Companies1507 et seq.	
" Companies (Criminal Code)... 7006	
SURGEON-GENERAL920 et seq.	
SURGEONS994 et seq.	
" Examination of1626-1646	
SURGERY (Criminal Code) 7564	
SURVEYORS and Surveys (Civil Code)6016-6034	
" of County (Civil Code)...6016-6027	
SURVEYS, Plats, and Maps of Towns (Civil Code)6028-6034	
SURVIVAL of Actions (Civil Code)	
2495-2501	
SUSPENSION of General Law (Const., sec. 108).	
" of Laws (Const., sec. 21).	
SWAMP AND OVERFLOWED LANDS879- 882	
Grant of Swamp and Overflowed Lands 879	
Purchasers May Obtain Patent.. 880	
Alleged Claims May be Established and Title Secured.... 881	
Titles Prior to Feb. 12, 1879, Not to be Disturbed..... 882	
TALLADEGA School for Deaf Mutes and Blind1933-1953	
TANGIBLE and Intangible Property; Value for Taxation 2371 et seq.	
TARIFF Associations (Civil Code) .. 4594-4596	
Tax Assessors; Election, Qualification, and Compensation; Deputies2094-2101	
TAX Assessments2102-2145	
" Assessor, Impeachment of (Const., sec. 175).	
" Assessors, Municipal 1227	
" Assessors, Term of Office.... 1466	
TAXATION2060-2412	
Assessments Against Railroad and Telegraph Companies ...2133-2145	
Return by Railroad to Auditor.. 2133	
Duty of Auditor on Failure to Make 2134	
State Board of Assessment.... 2135	
Meetings of Such Board..... 2136	
Assessment by Board; Penalty for Failure to Make Return. 2137	
Adjournment of Board; Data for Assessments 2138	
Attorney-General at Meeting of Board 2139	
Record of Proceedings; Attorney-General Decides When Board Equally Divided.... 2140	
Principles of Valuation of Railroad, Long Distance Telephone, and Telegraph Property 2141	
Notice to Assessors, and Copy to Superintendent of Companies; Duty of Assessors.. 2142	
Returns by Telegraph Companies 2143	
Report of Auditor..... 2144	
Assessment of Other Property of Railroad, etc., Companies 2145	
Assessments; How Made; Assessors	
2102-2132	
Commencement and Completion Supplemental Assessment... 2102	
Appointments by Assessor and Notice Thereof; Effect of Failure to Give Notice or Attend 2103	
Taxpayer to Attend Appointment and Return List of His Property 2104	
Oath to be Administered to Taxpayer 2105	
Assessor to Interrogate Taxpayer as to Items and Details of Property 2106	
Demand of Taxpayers Failing to Meet Assessor at Appointments 2107	
Full Statement of Subjects of Taxation Required of Taxpayers 2108	
When Sworn List May be Sent in by Another Person..... 2109	
Assessment Made on Information 2110	
Assessor to Fix Value of Each Item of Property..... 2111	
How Values Estimated; Minerals and Timber, When Assessed Separately 2112	
How Real Estate May be Described 2113	
By Whom Property Should be Listed 2114	
Telephone Companies; Penalty.. 2115	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Taxation—Continued.	SECTION.	SECTION.	
Made on Information; Penalty.	2116	Officer Selling Property Under Decree or Process to First Pay Taxes	2356
After February First; Five Per Cent Penalty	2117	Liability of Agent for Taxes on Receipts	2357
To "Owner Unknown"	2118	Copies of Papers, Records, etc., in Auditor's Office as Evidence	2358
Escaped Taxes	2119	Assessor and Collector May Contract for Stationery, Printing, etc.	2359
Form and Contents of List; Plat Book, etc.	2120	Penalty Against Officer Failing to Pay Over Money Collected	2360
Assessor to Deliver to Commissioners, etc.	2121	Collecting; Paying Over	2169-2209
Condensed Statement of in Books by Assessor	2122	Appointments by Collector, and Notice Thereof	2169
Books and Lists to be Delivered to Judge of Probate	2123	Failure to Attend Appointments	2170
Judge to Examine Book, and if Correct, Give Duplicate Receipts Therefor; Copy to be Sent Auditor	2124	Demand Upon Delinquents	2171
Taxpayer About to Leave County	2125	Payment of Taxes	2172
Duty to Compute and Enter County Taxes and Complete Assessment Book	2126	Interest on Taxes	2173
Land Book	2127	Receipt to Taxpayer	2174
Form of Book and Entries	2128	Stubbook of Receipts	2175
Lands to be Listed Each Year	2129	Sale of Personal Property	2176
Land Book to be Delivered to Judge of Probate by First Monday in May	2130	Application of Proceeds of Sale	2177
Judge of Probate to Receipt for Land Book, and Certify Fact to Auditor	2131	No Property Exempt from Sale	2178
Compensation of Assessor for Making Land Book	2132	Collection by Garnishment	2179
Auditor; Duties of as to Enforcement of the Revenue Laws	2348-2360	Proceedings on Garnishment	2180
As to Enforcement of Revenue Laws	2348	Costs in Such Proceedings	2181
Assessment Lists; Form and Printing of	2349	Shares in Corporations	2182
To Prepare and Furnish Printed Forms of Questions for Use by Assessors	2350	Real Estate Sold for Taxes	2183
Revenue Law to be Printed in Pamphlet for Distribution	2351	List of Errors and Insolvents and Litigated Taxes Reported	2184
As to Institution of Suits; Agreed Statement of Facts	2352	Duty of Commissioners as to Such Lists; Credits Allowed Collector	2185
Failure to Give Collector Credit for Commissions; How Corrected	2353	Presiding Officer to Certify Lists to Auditor in Ten Days	2186
Warrant for Overpayments	2354	New Accounts to be Opened Against Collector for Insolencies and Taxes in Litigation	2187
Taxes a Preferred Claim in Case of General Assignment or Insolvency	2355	Insolvent Lists to be Delivered to Collector Within Twenty Days from Adjournment of Court	2188
		To Collect and Report Such Insolvent Taxes	2189
		Final Report of Uncollected Balances	2190
		Report on Retiring from Office; Liability Transferred to Successor	2191

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Taxation—Continued.	SECTION.	SECTION.
Taxpayer About to Remove from County	2192-2194	Judge of Probate to Furnish... 2158
Escaped Taxes Assessed.....	2195	List of Insurance Agents Furnished Assessor
Report Escaped Taxes; Entry; Abstract	2196	2159
Separate Account of Poll Tax..	2197	Definition of Terms.....
Poll Tax Reported and Paid...	2198	2060
Annual Consolidated Report....	2199	Exemptions From Taxation...
Monthly Reports	2200	2061-2073
Monthly Report by County Treasurer	2201	Property and Persons Exempt..
Collector Must Account to Auditor in January and April; Allowance for Commissions, etc.	2202	2061
Final Settlement	2203	Cotton Factories
Final Settlement to be Made With County Treasurer on or Before the First Day of July	2204	2062
Settlement by Personal Representative on Death of Collector	2205	Application for Such Exemption
What Receipts for Special Taxes Must Specify	2206	2063
Special Taxes; How Kept and Paid Over	2207	Agricultural Products and Pig Iron
How Special Taxes Kept and Disbursed by Treasurer....	2208	2064
How Account of Special Taxes Closed by Treasurer.....	2209	Property Listed
Commissioners' Courts; Judge of Probate; Assessments; Levy of County Taxes	2146-2159	2065
Terms of Court	2146	Cotton Mills for a Term of Years
Duties of the Court at the June Term	2147	2066
Correction of Errors.....	2148	Ship Building Plants
Oath of Commissioners.....	2149	2067
Duty of Assessor to Attend....	2150	When Exemptions Shall Cease.
Assessments of Escaped Taxes.	2151	2068
Intent and Purpose; Same Liberally Construed	2152	Water Powers
Collector Notified of Changes in Assessment	2153	2069
Court May Require Assessor and Collector to Produce Books and Papers	2154	Calcium Cynamid (Lime Nitrogen)
Levy of County Tax.....	2155	2070
Certificate on Book of Assessments	2156	Agricultural Associations
Abstracts for Auditor and Collector	2157	2071
		State Fair and Exhibit Association
		2072
		Patented Property
		2073
		Franchise Tax on Common Carriers
		2364-2390
		Intangible of Common Carriers.
		2364
		Addition to ad Valorem.....
		2365
		Statement by Carriers.....
		2366
		Contents of Such Statement....
		2367
		Statement for Express Companies
		2368
		Commission Demands Additional Ones
		2369
		Hearing of Commission.....
		2370
		Market or True Value as Basis of Fixing Taxable Value...
		2371
		Assessed Value Deducted from Entire Value
		2372
		Carriers Doing Inter-State Business; Tax Value; How Fixed
		2373
		Apportioned Among the Several Counties and Towns of This State
		2374
		Other Modes of Fixing Values May be Adopted by Commission
		2375
		Notice to Common Carriers of Tax Valuation Fixed; Service of
		2376
		Owner May File Statement and Have Hearing or Investigation Fixing Tax Value.....
		2377
		Appeal from Hearing to Circuit Court by Owner.....
		2378

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Taxation—Continued.	SECTION.
Appeal by Either Party to Supreme Court	2379
Individuals as Common Carriers; Capital or Property Used in Business Deemed Capital Stock	2380
Report of State Tax Commission to Tax Assessors in Various Counties; Contents of Assessment and Collection by County	2381 2382
Effect of Franchise Tax Upon ad Valorem Tax and Tax Upon Shares of Stock in Corporation	2383
Failure to Comply With Provisions of This Article; Forfeiture and Penalty for.....	2384
Tax Commission May Acquire Information from Other Sources	2385
Property in Hands of Receiver, Assignee, Trustee, etc.....	2386
Exceptions from Tax on Gross Receipts	2387
State Board of Assessment May Perform Duties of State Tax Commission	2388
Form and Sufficiency of Tax Assessments Under This Article	2389
Suit or Action for Collection of Taxes	2390
Franchise Tax on Foreign Corporations	2391-2400
Franchise Tax Required of Foreign Corporations	2391
Classification of Foreign Corporations; Amount of Franchise Tax Required of Each Class	2392
Written Statement Required of Corporation as to Franchise Taxes; Contents of Such Statement	2393
Probate Judge May Review and Revise Statement as to Amount of Capital Employed	2394
Appeal from Finding of Probate Judge as to Amount of Capital	2395
Payment of Franchise Tax Requisite to Doing Business..	2396

	SECTION.
Payment in One County Only... Not Exempt from Certain License or Privilege Taxes...	2397 2398
County Franchise Tax.....	2399
Loans of Money Upon Which Mortgage Tax is Paid, Deducted from Capital Employed	2400
Licenses; Issuing, Refunding, etc.	2401-2412
Unlawful to Engage in Certain Business Without License..	2401
Payment for, and Issue and Contents of License.....	2402
Expiration of Licenses; Time for Which Issued; Exceptions..	2403
Licenses to Retailers Posted; Penalty for Failure.....	2404
Forms of Licenses Prepared by Auditor; Blanks Furnished Judges of Probate.....	2405
Stub to be Filled up and Signed Before Detaching License..	2406
License Record to be Kept; Annual Report and Return of Unused Licenses and Stubs; Examination by Auditor....	2407
License Money to be Promptly Paid Over, Else no Commissions Allowed; Quarterly Reports; Penalty	2408
Auditor to Furnish Copies of License Reports to Solicitors; Duty of Solicitors and Grand Juries	2409
Judge of Probate to Furnish Solicitor With List of Licenses Issued	2410
When License Money Refunded Application Therefor; How Money Refunded	2411 2412
License Taxes; Businesses Required for	2361-2363
Persons Required to Take Out Licenses, and Prices to be Paid Therefor	2361
Licenses for County Purposes; Amounts, How Determined.	2362
Lien of State for License Taxes	2363
Poll Tax; Subjects, Rates, Maturity, and Lien of Taxes..	2074-2093
Poll Tax	2074

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Taxation—Continued.	SECTION.	SECTION.	
Forms of Poll Tax Receipts and Blanks Furnished by Auditor to Tax Collector.....	2075	Liability of Assessor and Collector for Failure of Title Attributable to Their Negligence	2302
Stubs and Receipts.....	2076	The State or Any Other Purchaser May Bring Ejectment or Unlawful Detainer	2303
Collector's Account to Auditor.	2077	Liability of Officer When Suit by Purchaser Defeated by Reason of Failure of Duty on Their Part	2304
Time When Receipts May be Given	2078	When Plaintiff Recovers Purchase Money, etc., Though Cast in Suit for Land.....	2305
Alphabetical List of Persons Who Have Paid Poll Taxes Filed in Probate Court.....	2079	When Defendant Entitled to Judgment for Same, Though Cast in Suit for Land.....	2306
Compensation of Tax Collectors for Making List.....	2080	Tender by Party Claiming Adversely to Tax Title; and Effect Thereof	2307
Rate of State Taxation	2081	Statement of Claims Under Tax Title Made in Pleadings ...	2308
Subjects, Objects, and Rates of Taxation	2082	Effect of Redemption or Tender in Suit by Party Claiming Under Tax Title	2309
Enumeration of Subjects of Taxation Not to Interfere With Other Exemptions from Taxation	2083	Books, etc., of Judge of Probate and Collector as Evidence..	2310
Other Subjects of Taxation and Rates Thereon	2084	Statute of Limitations as to Recovery of Lands Sold for Taxes	2311
Telegraph Companies to Pay Privilege Tax to State Treasurer	2085	Ascertainment of Amount of Taxes Paid and Twenty-five Per Cent Per Annum; Conditional Judgment in Such Case	2312
Express Companies to Pay Privilege Tax to State Treasurer.	2086	Refunding Money Paid for Taxes 2340-2347	
Sleeping Car Companies to Pay Privilege License, and Franchise Taxes to State Treasurer	2087	To Refund Taxes When Paid by Error	2340
Building and Loan Associations to Pay Privilege and Property Tax	2088	Proof of Claim Certified to Auditor	2341
Insurance Companies to Pay Tax on Gross Receipts.....	2089	How Paid by State Auditor....	2342
When Foreign Insurance Company Considered as Doing Business in State; Taxes Against	2090	To Whom Applicable	2343
When Taxes Become Due and When Delinquent	2091	Time Within Which Petition Must be Filed	2344
Property Brought Into State After First of October; When Taxable	2092	Paid Under Mistake of Law or Fact; Refunded; Action for.	2345
Lien of State and County for Taxes	2093	Payment of Amounts; Erroneously Paid and Costs Awarded	2346
Purchasers of Land at Tax Sale; Rights and Remedies .	2300-2312	Extent of Two Preceding Sections	2347
When Sale Invalid, Lien of State and County Passes.....	2300		
Liability When Land Not Liable is Sold	2301		

INDEX TO VOLUME I,

1099

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Taxation—Continued.	SECTION.
Sales, Erroneous, and Refunding	
Purchase Money	2329-2331
When Sale by the State Canceled and Purchase Money Refunded	2329
Amount of Such Purchase Money Paid Over to County to be Refunded to State.....	2330
When Tax Sale to Private Purchaser; Canceled and Money Refunded	2331
Sales, Erroneous	2332-2339
Duties of State Auditor as to Erroneous Sales of Property for Taxes	2332
Agent in Each County.....	2333
Compensation of Agents.....	2334
Power to Investigate Sales.....	2335
Compensation of Person or Firm to Investigate Sales.....	2336
Record of Land Bid in by State at Tax Sale.....	2337
Sale by the State; When Not Redeemed	2338
Notice to Former Owner to Redeem	2339
Sales of Land for Taxes	2268-2299
Jurisdiction of Probate Court to Order Sale of Land for Taxes	2268
Docket of Lands Made by Collector	2269
Preparation of Docket; Time of Delivery; Effect of Failure to Deliver	2270
Notices Issued to Persons Assessed; Form of	2271
Service of Notice; How Made and Returned	2272
Notice by Publication or Posting; When Given.....	2273
Notice When Lands Assessed to "Owner Unknown;" Form of, and How Given.....	2274
Publication, Rate, Control, etc..	2275
Trial-term; When Service Not Made in Time; Issue of Notices; Continuances	2276
Collector to Attend Court; His Book of Evidence.....	2277
Decree of Sale	2278
Sales Under Decrees; Notice of Sale	2279

	SECTION.
Abbreviations in Advertisements and Entries Authorized	2280
Time and Place of Sale; Judge of Probate Attends Sales and Makes Record Thereof.	2281
How Real Estate Offered for Sale; Minimum Price.....	2282
Second Sale on Failure of Bidder to Pay	2283
When Real Estate Bid in for State	2284
Certificate to Purchaser; Contents	2285
Certificate of Purchase to State; Lands Bid in Not Thereafter Assessed	2286
Advertisement of Sale; What Part Paid by State.....	2287
What Portion of Such Advertisement Payable by Collector.	2288
Certificate of Purchase Assignable	2289
Officers Forbidden to Purchase at Sale; Penalty; Sale Void...	2290
Appeal from Decree of Sale, and Proceedings Thereon	2291
Disposition of Money Collected on Judgment	2292
Fees and Costs	2293
Disposition of Excess of Purchase Money; When Covered Into General Fund of County	2294
Excess May be Paid to Owner Within Five Years.....	2295
Deed to Purchaser	2296
Deed to be Acknowledged; Effect as Evidence.....	2297
Forms of Certificates and Deeds Prepared and Distributed...	2298
Assessment of Lands Bid in by the State, and Not Redeemed or Sold	2299
Constitutional Provisions.	
TAXATION (Const., secs. 211-219).	
" Additional for Public Building or Bridges, \$0.25 on \$100 (Const., sec. 215).	
" Against Abutting Owners (Const., sec. 223).	
" Election as to (Const., sec. 216).	
" Exemptions from Municipal; Annexed Territory ..1099 et seq.	

	SECTION.
TAXATION, Franchise Tax in Proportion to Capital Stock (Const., sec. 229).	
“ Franchise Tax Must be Provided for by General Law	(Const., sec. 229).
“ Improvements of Streets, Sidewalks, etc.	(Const., sec. 223).
“ Inheritance Tax	(Const., sec. 219).
“ in Municipalities1311-1337
“ Laws Regulating2060-2412
“ Municipal Corporations; Rate, Maximum, \$0.50 on \$100	(Const., sec. 216).
“ Offenses Concerning7712-7720
“ Poll-Tax; Amount; When and How Paid	(Const., sec. 194).
“ Proportionate	(Const., sec. 211).
“ Poll-Tax Applied to School Fund	(Const., sec. 259).
“ Property Exempt From if Used for School or Charitable Purposes	(Const., sec. 91).
“ Power to Levy Shall Not be Delegated	(Const., sec. 212).
“ Privilege or License Taxes	(Const., sec. 221).
“ Privilege or License Tax for Corporation in Proportion to Stock, Provided Under General Law	(Const., sec. 229).
“ Privilege or License Tax, Foreign Corporation	(Const., sec. 232).
“ Property Not Taxed	(Const., sec. 91).
“ Rate for County, Maximum \$0.50 on \$100	(Const., sec. 215).
“ Rate, State Tax, Maximum \$0.65 on \$100	(Const., sec. 214).
“ Taxes Not Required for Worship or Ministry	(Const., sec. 3).
“ Taxes Levied in Proportion to Value	(Const., sec. 211).
“ Taxes Remain Unaffected by the Constitution, Schedule 2.	

	SECTION.
TAXATION, Special School Tax Not Exceeding \$0.10 on \$100	(Const., sec. 269).
“ Uniform	(Const., sec. 217).
TAX COLLECTORS; DEPUTIES...	2160-2168
Tax Collector; Election and Term of Office.....	2160
Official Bond	2161
Lien of Bond	2162
Oath of Office.....	2163
Commissions of Tax Collector on General and Special Taxes..	2614
Mileage to and From Seat of Government	2165
Cost of Transmitting Money to State Treasurer Allowed Him	2166
Fees of Collector.....	2167
Authority to Appoint, and Liability for Acts of Deputies.	2168
TAX Collectors, Final Settlement.	2203 et seq.
“ Collector, Impeachment of	(Const., 175).
“ Collector, Municipal	1227
“ Collectors, Must Account for Taxes in January.....	2202
“ Collectors, Term of Office.....	1466
TAX COMMISSION	2210-2267
Commission Created	2210
Commissioners Named	2211
Appointment and Term of Office of Commission	2212
Vacancy in Office; How Filled..	2213
Qualification for Office of Commissioner	2214
Special Oath of Commissioner..	2215
Salary of Commissioner.....	2216
Meeting and Sessions of Commission; Notice to County Commissioners Thereof	2217
Secretary, Engineers, and Other Assistants; Employment and Compensation of; How Paid	2218
Office at Capitol; Fixtures and Supplies Therefor; How Furnished and Paid for.....	2219
Expenses of Commission	2220
Employes Subject to Commission and Removal by	2221

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Tax Commission—Continued.	SECTION.
Limit of Appropriation for Expenses, etc.	2222
Powers, Authority, and Duty of Commission	2223
Oath of Witness	2224
Witnesses	2225
Evidence Tending to Criminate Witness; How Provided Against	2226
Fees, Mileage, and Compensation of Witnesses	2227
Thirty Days' Notice Given to Owner of Reassessment; How Served or Given	2228
Appeal by Owner from Judgments or Assessments	2229
Appeals to Supreme Court....	2230
Fees of Witnesses	2231
Assessment Once Fixed; Property Assessed at No Less Valuation	2232
Conclusiveness of Findings, Judgments, Assessments, etc.	2233
Appeal from Judgments, etc., Operate as Supersedeas	2234
Record of Proceeding; Publication and Circulation of....	2235
County Tax Commissioners; Ap- pointment of	2236
County Tax Commissioner; Va- cancy in Office; How Filled.	2237
County Tax Commissioner; Re- moval of	2238
County Tax Commissioner; Pow- ers and Duties of	2239
Attorney-General Solicitor, and Duties as to	2240
Special Counsel Employed by Governor	2241
Compensation of Tax Commis- sioners	2242
County Tax Commissioner; Bond of	2243
Special Duties of County Tax Commissioners as to Escaped and Delinquent Taxes	2244
Duty as to License and Privilege Taxes	2245
County Officers Must Co-operate.	2246

	SECTION.
County Officers Guilty of Con- tempt for Failure to Per- form Duties	2247
Supplemental Assessments by Commissioners	2248
Fees and Compensation for Sup- plemental Assessments	2249
Under-Valuation of Assessments; Duties of Commissioner as to	2250
Fees and Compensation as to Under-Valuation Assess- ments	2251
Appeals	2252
Commissioners; Powers of, to Administer Oath; Question Witnesses	2253
Notice and Order Served by Deputy	2254
Duties of County Tax Commis- sioners	2255
Fees and Compensation as to Cases Tried by Court....	2256
Commissioners Must Get Up Evi- dence for State on Appeals in Tax Proceedings	2257
County Tax Commissioner to At- tend Courts of Equalization.	2258
May Assist Municipalities..	2259
Escaped Taxes; Duties as to....	2260
Notice to Owner of Assessment.	2261
Notice; Contents of	2262
Case Entered on Docket by Clerk of Court	2263
Case Heard and Determined....	2264
Finding Force and Effect of Judgment	2265
Penalty of Ten Per Cent Added.	2266
Taxes, When Collected, Reported to Probate Judge, and by Him Certified to Auditor... ..	2267
Tax Commission, Witnesses Be- fore	2224 et seq.
Tax Commissioner, County....	2236 et seq.
TAXES (Criminal Code).. 7486, 7442, 7443	
“ Apportioned Between New and Old Counties	124- 127
“ Board of Assessment; Duty on Commission	2388

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.		SECTION.
TAXES , Delinquent	2171	TEACHERS	1719 et seq.
“ Escaped, Municipal	1827	“ Examination of	1719-1750
“ Escaped, Reported	2196	“ Institutes	1751-1754
“ for License Refunded.....	2412	“ Paid Monthly	1750
“ Franchise; Effect on ad Va- lorum	2383	“ Payment of (Const., sec. 261).	
“ Gross Incomes and Earnings. 2364 et seq.		TELEGRAPH and Telephone Compa- nies; Consolidation of Denied (Const., sec. 239).	
“ Insolvents	2188 et seq.	“ and Telephone Companies; Lines Constructed and Main- tained (Const., sec. 239).	
“ Interstate Business	2373	“ and Telephones; Municipal Regulation	1268
“ License, Privilege, and Fran- chise	2361-2412	“ and Telephones; Offenses Con- cerning (Criminal Code)...	7820
“ Municipal; Garnishment for Collecting	1816	“ Companies	2135-2145
“ Municipal, Lien of.....	1814	“ Companies (Civil Code)..	5815, 5816
“ Municipal, Provided.....	1811-1837	“ Companies, Assessment of Taxes	2133-2145
“ Municipal, When Due and De- linquent	1812	“ Lines, Use of Streets for.....	1268
“ No Exemption from.....	2178	TELEPHONE and Telegraph Compa- nies, Lines Constructed and Maintained (Const., sec. 239).	
“ on Gross Receipts; Exceptions	2387	“ and Telegraph Companies, Con- solidation of Denied (Const., sec. 239).	
“ Owner Unknown	2274	“ Lines, Use of Streets for.....	1268
“ Paid Under Mistake... 2345 et seq.		TELEPHONES ; Offenses Concerning (Criminal Code)	7820
“ Preferred Claims	2355, 2356	TEMPORARY Absence Shall Not Forfeit Residence (Const., sec. 31).	
“ Privilege and License.....	2361	“ Use of Another's Property (Criminal Code)	7330
“ Removal of Property from County	2192-2194	TENANT (Civil Code).....	4731-4753
“ Special, for Courthouse..	138 et seq.	“ for Life (Civil Code).....	3420, 3405, 3426
“ Special, for Pensions.....	2031	TENANTS in Common (Civil Code)	5203-5231
“ Special, for Road or Bridge; One-half to Municipality... 1835		“ in Common (Criminal Code)..	7821
“ Special, How Kept and Paid Over	2207	TENDER (Civil Code).....	3752, 3753, 5749 et seq.
“ Tangible and Intangible Prop- erty	2371 et seq.	TENNESSEE	83
TAX Receipts	2174	TENPINS	2361
“ Sales	2268-2331	TERMS of Chancery Courts (Civil Code)	3043 et seq.
“ Sales for Municipal Taxes..	1311-1337	“ of Circuit Courts (Civil Code)	3231 et seq.
“ Sales for Street Improvements	1323	“ of Circuit Court (Const., sec. 144).	
“ Sales, Municipal	1315		
“ Sales, Municipal, in Chancery Court	1322		
“ Sales, Personalty	2776 et seq.		
“ Title, Adverse Possession Un- der	2307 et seq.		
“ on Franchises of Common Car- riers	2364 et seq.		
“ Toll, or Wharfage Not Re- quired on Navigable Waters Except as Authorized by Law (Const., sec. 24).			

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.

TERMS of Courts, How Provided for (Const., sec. 105).
 " of Incumbent Officers Not Affected by Ratification of Constitution, Schedule 3.
 " of Office Not Abridged by Constitution (Const., sec. 172).
 " of Office of Senators and Representatives (Const., sec. 46).
 " of Office of Judges of Courts of Record (Const., sec. 155).
 " of Office of Executive Officers (Const., sec. 116).
 " of Office of Sheriffs (Const., sec. 138).
TERRITORY, Additional; How Acquired (Const., sec. 90).
 " Alabama, Established (pp. 31-35).
 " Annexation of (Const., sec. 90).
 " Mississippi, Established (pp. 22-30).
 " Northwest of Ohio River (pp. 16-22).
TESTAMENTS (Wills) (Civil Code) 6152 et seq.
TESTIMONY (Evidence) (Civil Code)3958-4076
TEST, Religious, Shall Not be Required (Const., sec. 3).
TEXT-BOOK COMMISSION; MEMBERS; APPOINTMENT OF..
 1805-1850
 Text-book Commission; How Constituted 1805
 Oath of Commissioners..... 1806
 Commission; Organization of... 1807
 Duties of Commission..... 1808
 Unlawful to Use Other Books Than Those Selected..... 1809
 Branches of Study for Which Books Selected 1810
 Partisan or Sectarian Books Forbidden 1811
 Books Selected May be Dropped 1812
 Qualities and Merits of Books Control in Selection..... 1813
 Desirable Books; When Price Too High 1814

SECTION.

Advertisement for Bids..... 1815
 Bids, Specifications, Requisites, and Contents of Bids..... 1816
 Deposit as Security for Performance of Bid..... 1817
 Bids Sealed and Deposited..... 1818
 Bids Opened, Examined, and Contract Awarded..... 1819
 Notification to Publishers of Contracts Awarded 1820
 Contract; Preparation, Execution, and Filing of..... 1821
 Bond of Contractor; Preparation, Execution, and Conditions of 1822
 Deposit Returned After Execution of Bond 1823
 Failure to Execute Contract or Bond; Consequence of..... 1824
 Recovery on Bond for Benefit of Fund 1825
 Books Furnished Must be Equal to Specimens 1826
 Secretary of State Preserves Sample Copies and Furnishes to Superintendent 1827
 Contract and Exchange Price Printed on Back of Books. 1828
 Price of Books for This State Shall Not Exceed That of Others 1829
 Changing or Altering Contract.. 1830
 Majority Controls 1831
 State Not Liable to Any Contractor 1832
 Old Books Exchanged for New.. 1833
 Rejecting Bids or Proposals.... 1834
 Re-advertisement for Bids..... 1835
 Bids for Copyright and Manuscripts 1836
 Manuscripts or Printed Form of Matter Proposed to be Incorporated in Book..... 1837
 Proclamation of Governor Announcing Contract 1838
 Three Depositories or Places of Sale in Each County..... 1839
 Contract Price Printed on Books 1840
 Distribution of Books..... 1841

With References to Volumes II and III, and the Constitution of Alabama, 1901.

Text-Book Commission—Cont'd. SECTION.	SECTION.
Commission Continues for Five Years; New Commission Appointed	1842
List of Books, Agencies, and Prices Furnished to County Superintendent of Education	1843
Supplementary Text - Books; Books for Higher or More Advanced Studies	1844
Other Books Used Upon Failure to Furnish Those Adopted..	1845
Appropriation	1846
Compensation of Commissioners.	1847
Clerk of Commission; Compensation of	1848
Books Adopted Continue for Five Years	1849
Failure to Furnish Books; Contract for Unexpired Term...	1850
THEATRE	2361
THREATENING Letters (Criminal Code)	6218
THREATS (Criminal Code)....	6302, 6218
TICKET Fixers	400, 401
TICK Law	765
TICKETS or Mileage Books (Civil Code)	5593-5597
TIE Vote in Election, How Decided..	428- 432
TIMBER . (Civil Code).....	4814-4821, 6035-6038
“ (Criminal Code)	7331-7333, 7863-7869
TIME ; Computation of.....	8, 11, 1759
“ Limitation of Actions (Civil Code)	4832-4863
“ of Elections	331- 338
TITHES and Taxes Not Required for Place of Worship (Const., sec. 3).	
TITLE , Abstract of (Civil Code)....	3841
“ of Bills (Const., sec. 45).	
“ of Nobility or Hereditary Distinction Shall Not be Granted (Const., sec. 29).	
TOLL Bridges (Civil Code)....	3023-3040
“ Bridges (Criminal Code)....	7822
“ Road (Criminal Code).....	7780
TOLLS and Freights (Criminal Code)	7687 et seq.
“ As to Wharfage (Const., sec. 24).	
“ Bridges, Ferries, Turnpikes, (Criminal Code)	7822-7825
TOMBSTONES (Criminal Code) ...	6753
TOOLS	2061.
TORTS ; Miscellaneous Actions (Civil Code)	2466-2471, 4491
TOWNS (see Municipal Corporations)	1046-1460
“ and Cities (Const., secs. 220-241).	
“ Bonds of, How Issued (Const., sec. 222).	
“ Bonds of, Refunding (Const., sec. 225).	
“ Classified	1052
“ Debts, Limited (Const., sec. 225).	
“ Grants of Use or Franchise for Longer than Thirty Years Prohibited (Const., sec. 228).	
“ How Authorized to Issue Bonds (Const., sec. 104).	
“ How Incorporated (Const., sec. 104).	
“ Liability for Negligent Act... 1273	
“ Limits of	1070-1074
“ Privileges Taxes (Const., sec. 221).	
“ Property of Not Taxed (Const., sec. 91).	
“ Shall Not Be Stockholder in or Lend Credit to Private Corporation (Const., sec. 94).	
“ Shall Not Lend Money or Credit to Private Enterprises (Const., sec. 94).	
“ Shall Not Pass Law Inconsistent with General Laws (Const., sec. 89).	
“ Streets, and Sidewalks, Use of (Const., sec. 220).	
TOWN Seal	sub. 6, 1192
TOWNSHIP	1689-1696
“ Trustees	1697 et seq.
TRACT-BOOK	573
TRADE and Commerce	2429-2439
TRADES and Professions; Taxed ..	2361, 1338-1347

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.
TRADING at Night (Criminal Code)	6878
TRAINS , Cars, Street Crossings, Municipal Regulation	1272
“ Standing Across Street	1452
TRAMPS ; Vagrants (Criminal Code)	7843-7850
TRANSACTIONS With Decedent (Civil Code)	4007
TRANSCRIPTS (Civil Code)	2848- 2851, 3374, 3983, 3988
TRANSPORTATION (Railroads) (Civil Code)	5473-5631
TREASON (Criminal Code)	7826
“ Defined, Two Witnesses Re- quired (Const., sec. 18).	
“ No Person Attainted of (Const., sec. 19).	
“ Those Convicted of Cannot Vote or Hold Office (Const., sec. 182).	
TREASURER of State	616- 633
Bond; Amount; Security; How Made	616, 617
Premiums for Bond; How Paid.	618
Actions Upon Bond	619
Settlement, Delivery of Books, etc., on Removal or Resigna- tion	620
Auditor to State Accounts, etc..	621
Governor Superintendence of Office	622
Salary	623
Duties	624
Clerks, Salaries of	625
Fiscal Agency	626
Money for Interest; How Drawn	627
Money Sent to Fiscal Agency...	628
Payment of Interest in New York	629
Not Liable for Loss in Payment of Interest	630
Custodian of Bonds, Duties as...	631
Record and Canceled Coupons...	632
Duplicate of Lost Bonds.....	633
TREASURER , Attorney-General, Au- ditor, Secretary of State, Su- perintendent of Education, Commissioner of Agriculture and Industries, Eligibility of (Const., sec. 132).	

	SECTION.
TREASURER , County	208- 218
“ of Municipalities	1204-1207
“ Shall Make Reports to the Gov- ernor (Const., sec. 137).	
TREASURY , Money, How Paid Out of (Const., sec. 72).	
TREES (Civil Code)	4814-4817, 6035-6038
“ and Plants (Horticulture)	811- 826
TRESPASS (Civil Code)	4251 et seq.
“ (Criminal Code)	7827-7837
TRIAL (Civil Code)	5296-5383
“ (Criminal Code)	7838, 7851
“ and Its Incidents (Civil Code)	5296-5383
“ and Its Incidents (Criminal Code)	7838-7848
“ by Jury, Inviolable (Const., sec. 11).	
“ Joint or Several (Criminal Code)	7842
“ of Right of Property; Inter- pleader at Law; Claim Suits (Civil Code)	6039-6053
“ Speedy and Public, Jury Trial (Const., sec. 6).	
“ Without Jury (Civil Code) ..	5359-5361
TROOPS (Criminal Code).....	7396 et seq.
“ State	929- 998
TROVER (Civil Code)	5329, 4835
TROY Excepted from Rate of Taxa- tion (Const., sec. 216).	
TRUSTEES , District	1697-1701
“ for Auburn, Election and Terms of Office (Const., sec. 266).	
“ for University of Alabama, Election and Term of Office (Const., sec. 264).	
TRUST Companies (Civil Code)	3528-3537
“ Funds, Interest of (Const., sec. 74).	
TRUSTS and Trustees (Civil Code).. 6054-6109	
“ Monopolies, and Combines (Criminal Code)	7579-7582
“ Regulations as to (Const., sec. 103).	
TUBERCULOSIS Sanitorium	771- 792
TUNNELS in Towns and Cities.	1296-1301
TURNIPS	2439

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.		SECTION.
TURPENTINE Forests (Criminal Code)	6907	Power of Holding and Disposing of Property	1871
" Mortgages of (Civil Code)	4895	University Fund Defined; Credit of State Pledged for Payment of Interest	1872
UOBBE CREEK, Boundary of Alabama	84	When Gift or Grant Not Affect- ed; What Not a Forfeiture.	1873
UNDERTAKERS (Embalmers) ..538- 545		Rights, etc., of University Con- tinued in Corporation	1874
UNDERTAKING	538-545, 9	Powers of Board of Trustees; No Exclusion from Benefit of "University Fund," etc.	1875
UNIONTOWN	54	Classification of Trustees; Term and Oath of Office	1876
UNITED STATES, CESSION AND CONDEMNATION OF LANDS	2413-2428	Quorum of Board of Trustees; President Pro Tempore	1877
The United States May Acquire Lands	2413	Time and Place of Meetings of Trustees	1878
Condemnation Provided for	2414	Proceedings of Board Recorded; Employment of Secretary; Payment of Expenses, etc. ...	1879
Application; Form and Contents of	2415	Report by Board to the Legisla- ture	1880
Order Appointing Day; Notice, Publication, and Service ...	2416	Interest on "University Fund;" How Payable	1881
Guardian Ad Litem and Counsel Appointed for Infant Own- ers	2417	Right Reserved to the Legisla- ture to Revise and Amend.	1882
Owner Not Appearing	2418	Law Department to Receive Sec- ond-Hand Text-Books from State Library	1883
Hearing; How Conducted	2419	Law Department Must Be Sup- plied with Codes	1884
Appeal Provided for; How Taken	2420	Police of Grounds; Appointment, Powers, and Duties	1885
Commissioners Appointed to Assess Damages; Notice to Commissioners	2421	Lands; Sale, Lease, or Other Dis- position Provided for	1886
Report of Commissioners	2422	Executive Committee Created and Authorized to Act	1887
Appeal from Assessment of Dam- ages	2423	Sales, Leases, etc., Ratified and Confirmed	1888
Order of Condemnation Vests Title	2424	Medical Department of Univer- sity of Alabama	1889
Damages, When Paid; Conse- quences of Not Paying	2425	Quadrennial Appropriations	1890
Commissioner Appointed to Exe- cute Conveyance	2426	Payment of Appropriations in quarterly Installments; Ex- ception	1891
Governor to Cede Jurisdiction; Restrictions	2427	Report Must Show Manner and Purpose for Which Funds Expended	1892
Cession of Submarine Sites....	2428	UNIVERSITY of Alabama (Const., secs. 264, 265).	
UNITED STATES, Cessions to, by State	898	" Board of Trustees, How Elect- ed, Terms of Office (Const., sec. 264).	
" Condemnation Proceedings ...	2413 et seq.		
" Constitution, Index to (pp. 174-216).			
UNIVERSITY OF ALABAMA ..1869-1892			
Incorporation of University	1869		
General Powers, Duties, and Lia- bilities of Such Corporation.	1870		

INDEX TO VOLUME I,

1007

With References to Volumes II and III, and the Constitution of Alabama, 1901.

	SECTION.
UNIVERSITY Funds, Defined	1872
" of Alabama, Location Shall Not Be Changed (Const., sec. 267).	
" of Alabama, \$36,000 Per Annum to Be Paid as Interest on Debt Due from State (Const., sec. 265).	
" Military System May Be Abolished (Const., sec. 265).	
UNLAWFUL Assemblies (Criminal Code)	7721-7726
UNLAWFUL Detainer (Civil Code)	4260-4286
UNREASONABLE Searches and Seizures Prohibited (Const., sec. 5).	
UNBOUND Mind Defined	1
" (Civil Code)	4945-4961
UNUSUAL Punishment, Denied (Const., sec. 15).	
UNWHOLESALE Food and Drink (Criminal Code)	7074-7081
USE and Occupation (Civil Code)...	4753, 4835
USES (Civil Code)	4287, 3408
" and Trusts (Civil Code) ..	3408-3415
USURPATION (Civil Code)....	5453-5472
USURY and Interest (Civil Code)..	4619-4625, 3607, 3608
UTILITY , Bonds for	1421-1435
VACANCIES as to Justices, Judges, and Chancellors, Filled by Appointment of Governor (Const., sec. 158).	
" in Executive Offices, Except that of Governor, Filled by Appointment of Governor (Const., sec. 136).	
" and Succession in Office of Governor (Const., sec. 127).	
" Office, Legislature, How Filled (Const., sec. 46).	
VACANCY in Office	1467-1474
VACATING Office	1556-1568
" Office, Failure to File Bond....	1498
VACCINATION , Municipal Regulations	1299
VAGABONDS (Criminal Code) ..	7842-7850

	SECTION.
VAGRANTS , Vagabonds, and Tramps (Criminal Code)	7843-7850
VALIDATING Acts (Const., sec. 283).	
VALUE of Exempt Property, How Ascertained (Const., sec. 92).	
VENDITIONI EXPONAS (Civil Code) ...	4097-4134, 4772, 4120, 2971, 4690
VENDOR'S Lien (Civil Code)	4900, 4699, 4162:
VENIENS , Special (Criminal Code) ..	7257-7269, 7840
VENUE (Civil Code)	6110-6122
" (Criminal Code)...	7851-7858, 7224-7232
" Change of (Const., sec. 6).	
" Change in Civil Suits (Const., sec. 75).	
VERDICT (Criminal Code)	7315-7317
VESSELS (Criminal Code) ...	7807 et seq.
VETERINARIANS	757- 770
VETO by Governor (Constitution) .	
" by Mayor	1186
" Executive (Const., sec. 126).	
" Governor May Veto Bills (Const., sec. 125).	
" How Bill Passed Over Governor's Veto (Const., sec. 125).	
" of Reconstruction Acts (pp. 41-54).	
VIADUCTS ; of Towns and Cities..	1296-1301
VICE-PRESIDENT , Electors for.	446- 451
VITAL Statistics (Criminal Code)..	7050 et seq.
VIVA Voce Vote on Election (Const., sec. 83).	
VOCATIONS , Municipal License Required	1336-1347
VOID Contracts (Civil Code) ...	3334-3353
" Section Does Not Render Others Invalid (Const., sec. 196).	
VOLUNTEER Force, How Formed (Const., sec. 274).	
" Force, Governor Commander-in-Chief of (Const., sec. 131).	

With References to Volumes II and III, and the Constitution of Alabama, 1901.

SECTION.	SECTION.
VOTE , on Election to Amend Constitution (Const., sec. 287).	WARRANTY (Civil Code) .3420, 3421, 3423
" Yea and Nay (Const., secs. 55, 63, 64).	WATER Closets, Municipal Regulations 1293
VOTERS , Challenge (Const., sec. 185).	WATER Companies 2361
" Registration of 300- 330	" (Civil Code)..3488 et seq., 3627-3637
" Who Are 290- 297	WATERCOURSES (Civil Code) .6143-6150
VOTING (Elections) 290- 511	" (Criminal Code) 7863-7875
" (Criminal Code) 6773 et seq.	" Navigable Streams Are Public Highways (Const., sec. 24).
" Persons Disqualified from Registering or Voting (Const., secs. 182-184).	WATER Craft (Civil Code) 6151, 6038
" Right, How Restored (Const., sec. 104).	" Powers Exempt 2069
VULGAR Language (Criminal Code) 6217	" Rights of Foreign Municipalities 1443-1449
WAGERING Contracts (Civil Code).	WATERS , Watercourses, Rivers, Streams, Booms, Etc. (Criminal Code) 7863-7875
3338-3345	WATERWORKS , Gas, Bonds 1459
WAGES (Civil Code)..... 4165, 4201, 4790 et seq.	" Municipal 1260-1263
WAIVER of Exemptions (Civil Code) 4281-4237, 4172	WEAPONS , Concealed (Criminal Code) 6421-6425
" of Exemptions (Const., sec. 210).	WEIGHTS AND MEASURES .2429-2439
WARDENS , Game and Fish..669 et seq.	Must Conform to Standard Established by Congress 2429
WARDS and Guardians (Civil Code) 4337-4481	Contracts Construed in Reference to 2430
" Extended, Municipalities. 1106 et seq.	Standard Furnished Counties by Secretary of State 2431
" How Changed (Const., sec. 104).	When Furnished in Case of Destruction 2432
" of Consolidated Municipalities 1129 et seq.	New Counties 2433
" of Municipalities 1062	Expense of Obtaining, etc.; How Defrayed 2434
WAREHOUSEMEN and Common Carriers (Civil Code) .. 6123-6142	Notice of Receipt of Weights and Measures 2435
WAREHOUSES and Warehousemen (Criminal Code) 7859-7861	Seal of Weights and Measures... 2436
WAR , How Declared (Const., secs. 27, 131).	Penalty for Selling by False Weights and Measures 2437
" Soldiers Quartered (Const., sec. 28).	Standard Balances, by Whom Kept 2438
WARS , those who served in entitled to Vote (Const., sec. 180).	Weights of Certain Commodities 2439
WARRANTIES and Covenants (Civil Code) 3420, 3421	WEIGHTS and Measures (Criminal Code) 7876
WARRANT of Arrest (Criminal Code) 6278, 7587, 7862	" and Measures, Municipal Provided for 1270
" of Municipalities, Interest on. 1205	WELL (Criminal Code) 7575
" Search, Supported by Oath (Const., sec. 5).	WELLS , Municipal Regulations 1280
WARRANTS ; County 146 et seq.	WEST FLORIDA Annexed to Alabama 80, 81
" State 599 et seq.	WHARFINGERS (Civil Code)..6131-6142

	SECTION.
WHARFS and Wharfage (Const., sec. 24).	
WHARVES and Wharf-Boats (Civil Code)	4790, 4791
WHEAT	2439
WHITECAPPING (Criminal Code). 7388, 6302	
WHITE Children, Separate Schools for	1757
“ Race, Separate Schools Maintained for (Const., secs. 256, 270).	
WHITES Shall Not Marry With Negroes (Const., sec. 102).	
WIDOW (Civil Code)	3812-3837, 4196-4230, 6168-6171
WIDOWS of Soldiers, Pensions for.. 1995-2037	
WIFE (Civil Code)	4486-4504
“ Separate Acknowledgments of Homestead (Const., sec. 204).	
WILD Hogs (Criminal Code)	6962
WILLS (Civil Code)	6152-6209
“ Effect Given to (Const., sec. 104).	
“ Married Women May Make (Const., sec. 209).	
WITNESSES (Civil Code) ...	4034 et seq.
“ (Criminal Code)	7877-7900
“ Accused for Himself (Const., sec. 6).	
“ Accused Not Compelled to Be Witness Against Himself (Const., sec. 6).	
“ Accused to Be Confronted by, to Have Compulsory Process for (Const., sec. 6).	
“ As to Contest Elections, Withholding Testimony (Const., sec. 189).	
“ Before Tax Commission..	2224 et seq.
“ Competency; Examination of (Civil Code)	4007-4018
“ Two Required for Treason (Const., sec. 18).	
WOMEN (Civil Code)....	4486-4504,, 2498, 2482, 6159
“ (Criminal Code)....	6767, 6857, 6217
“ Not Worked on Streets.....	1450

	SECTION.
WOODLAWN Excepted from Rate of Taxation (Const., sec. 216).	
WOODS , Burning (Criminal Code). 6906-6908	
WOOD Workmen (Civil Code)..	4785-4789
WORDS and Phrases	1- 13
“ (Civil Code)	4782, 4543
WORKING Public Roads, Inhabitants of Municipality Exempt. 1836	
WORKS , Board of Public	1233-1250
WORSHIP , Disturbing (Criminal Code)	6767-6769
“ No Preference (Const., sec. 3).	
“ Not Compelled to Attend (Const., sec. 3).	
WOUNDED Persons Cared for	1460
WRITING , Alienation of Homestead, and Waiver of Right of Exemptions to Be in (Const., secs. 205, 210).	
“ (Civil Code)..	4231, 4232, 4288, 4289, 4160
WRIT of Arrest (Criminal Code)... 6284 et seq.	
WRIT of Error (Criminal Code)... 6258 et seq.	
WRITS (Civil Code)....	3778, 3784, 4512 et seq.
“ Not to Issue Without Probable Cause (Const., sec. 5).	
“ of Seizure (Civil Code)...	3194-3200
“ Privilege of Shall Not Be Suspended (Const., sec. 17).	
“ Remain Unaffected by the Constitution (Schedule 2).	
“ Who May Issue (Const., secs. 140, 144).	
WYLAM , Excepted from Rate of Taxation (Const., sec. 216).	
YEA and Nay Vote, When Required (Const., secs. 55, 63, 64).	
YEAR , Fiscal	614
YEARS	8, 614, 1759
YELLOW Fever	716, 736 et seq.

